TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

This title was enacted by act June 25, 1948, ch. 646, § 1, 62 Stat. 869.

TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in title 42 sections 8220, 8433; title 48 sections 1694, 1694c.

PART I—ORGANIZATION OF COURTS

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6.	Bankruptcy Courts	151

AMENDMENTS

1978—Pub. L. 95-598, title II, § 201(b), title IV, § 402(b), Nov. 6, 1978, 92 Stat. 2660, 2682, added the item relating to chapter 6 in the analysis of chapters comprising Part I, effective Apr. 1, 1984.

EX. ORD. NO. 11992. COMMITTEE ON SELECTION OF FEDERAL JUDICIAL OFFICERS

Ex. Ord. No. 11992, May 24, 1977, 42 F.R. 27195, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), it is hereby ordered as follows:

SECTION 1. *Establishment of the Committee.* There is hereby established the Committee on Selection of Federal Judicial Officers, hereinafter referred to as the Committee. The Committee shall consist of a Chairman and six other members to be appointed by the President.

SEC. 2. *Functions.* When requested by the President, the Committee shall conduct inquiries to identify persons who may be qualified to serve as Federal judicial officers, other than United States Circuit Judges or District Judges, and shall conduct investigations of those persons to determine their qualifications.

SEC. 3. *Procedures; Report.* (a) When notified by the President that he desires its assistance in filling a Federal judicial vacancy, other than a United States Circuit Court or District Court vacancy, the Committee shall conduct inquiries to identify persons who may be qualified to serve in the position and shall conduct further inquiries to determine those persons' qualifications.

(b) In conducting its inquiries the Committee shall follow any procedures established by the President in his letter of notification or by the Attorney General acting on behalf of the President.

(c) The Committee shall submit to the President and to the Attorney General, within 60 days from the date it is notified by the President that he desires its assistance, a report listing the names of no more than five persons whom the Committee considers well qualified to serve in the position. In determining which persons are well qualified the Committee shall apply criteria established by the President or by the Attorney General acting on behalf of the President.

(d) The Committee shall conduct such additional inquiries and submit such additional reports as may be requested by the President.

(e) The Committee shall perform no function except when requested by the President to assist him in filling a vacancy.

SEC. 4. *Ineligibility of Committee Members.* No member of the Committee shall be eligible to be nominated to fill a position as a Federal judicial officer with respect to which the Committee's assistance has been requested.

SEC. 5. *Cooperation by Executive Agencies.* The Committee is authorized to request, through its Chairman, from any Executive department or agency such information or assistance as the Committee deems necessary to carry out its functions under this Order. Each department or agency shall, to the extent permitted by law, furnish such information or assistance to the Committee. The Committee also is authorized to request from any State agency such information and assistance as the Committee deems necessary, and to obtain such information and assistance to the extent permitted by State law.

SEC. 6. *Travel Expenses; Administrative Support; Financing.* (a) Members of the Committee shall serve without compensation. While engaged in the work of the Committee, members may receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703).

(b) The Attorney General shall furnish to the Committee necessary staff, supplies, facilities and other administrative services.

(c) All necessary expenses incurred in connection with the work of the Committee, to the extent permitted by law, shall be paid from funds available to the Attorney General.

SEC. 7. *Federal Advisory Committee Act Functions.* Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.), except that of reporting annually to the Congress, which are applicable to the Committee, shall be performed by the Attorney General in accordance with the guidelines and procedures established by the Office of Management and Budget.

SEC. 8. *Termination of the Committee.* The Committee shall terminate on December 31, 1978, unless sooner extended.

JIMMY CARTER.

CHAPTER 1—SUPREME COURT

§ 1. Number of justices; quorum

SHORT TITLE OF 1978 AMENDMENTS

Pub. L. 95-539, § 1, Oct. 28, 1978, 92 Stat. 2040, provided: "That this Act [enacting sections 1827 and 1828 of this title, amending sections 602 to 604 and 1920 of this title, enacting provisions set out as notes under section 602 of this title, and repealing a provision set out as a note under section 602 of this title] may be cited as the 'Court Interpreters Act'."

Pub. L. 95-408, § 1, Oct. 2, 1978, 92 Stat. 883, provided that: "This Act [amending sections 89, 93, 97, 98, 104, 112, 114, 133 of this title and enacting provisions set out as a note under section 89 of this title] may be cited as the 'Federal District Court Organization Act of 1978'."

§ 5. Salaries of justices

INCREASE OF SALARIES

Salaries of the Chief Justice and Associate Justices increased to $79,100 and $76,000, respectively, effective on the first day of the first pay period beginning on or after Oct. 1, 1978, by Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, set out as a note under section 5332 of Title 5, Government Organization and Employees. Ex. Ord. No. 12087, further provided that pursuant to the Legislative Branch Appropriation Act, 1979 [Pub. L. 95-391, title III § 304, Sept. 30, 1978, 92 Stat. 788, set out as a note under section 5318 of Title 5], funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1978, which was $75,000 for the Chief Justice and $72,000 for the Associate Justices.

CHAPTER 3—COURTS OF APPEALS

Sec.	
46.	Assignment of judges; panels; hearings; quorum.
49.	Assignment of judges to division to appoint special prosecutors.

AMENDMENTS

1978—Pub. L. 95-521, title VI, § 602(b), Oct. 26, 1978, 92 Stat. 1874, added item 49.

Pub. L. 95-486, § 5(c), Oct. 20, 1978, 92 Stat. 1633, substituted "panels" for "divisions" in item 46.

§ 41. Number and composition of circuits

APPEALS COURT ADMINISTRATIVE UNITS

Pub. L. 95-486, § 6, Oct. 20, 1978, 92 Stat. 1633, provided that: "Any court of appeals having more than 15 active judges may constitute itself into administrative units complete with such facilities and staff as may be prescribed by the Administrative Office of the United States Courts, and may perform its en banc function by such number of members of its en banc courts as may be prescribed by rule of the court of appeals."

§ 44. Appointment, tenure, residence and salary of circuit judges

(a) The President shall appoint, by and with the advice and consent of the Senate, circuit judges for the several circuits as follows:

Circuits	*Number of judges*
District of Columbia	11
First	4
Second	11
Third	10
Fourth	10
Fifth	26
Sixth	11
Seventh	9
Eighth	9
Ninth	23
Tenth	8

[*See main edition for text of* (b) *to* (d)]

(As amended Oct. 20, 1978, Pub. L. 95-486, § 3(b), 92 Stat. 1632.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-486 altered the number of permanent circuit judgeships in the named circuits as follows:

Circuits	*Former*	*New*
District of Columbia	9	11
First	3	4
Second	9	11
Third	9	10
Fourth	7	10
Fifth	15	26
Sixth	9	11
Seventh	8	9
Eighth	8	9
Ninth	13	23
Tenth	7	8

INCREASE OF SALARIES

Salaries of circuit judges increased to $60,700 effective on the first day of the first pay period beginning on or after Oct. 1, 1978, by Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, set out as a note under section 5332 of Title 5, Government Organization and Employees. Ex. Ord. No. 12087, further provided that pursuant to the Legislative Branch Appropriation Act, 1979 [Pub. L. 95-391, title III, § 304, Sept. 30, 1978, 92 Stat. 788, set out as a note under section 5318 of Title 5], funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1978, which was $57,500.

ADDITIONAL CIRCUIT JUDGESHIPS

Section 3(a) of Pub. L. 95-486 provided that: "The President shall appoint, by and with the advice and consent of the Senate, one additional circuit judgeship for the first circuit, two additional circuit judgeships for the second circuit, one additional circuit judgeship for the third circuit, three additional circuit judgeships for the fourth circuit, eleven additional circuit judgeships for the fifth circuit, two additional circuit judgeships for the sixth circuit, one additional circuit judgeship for the seventh circuit, one additional circuit judgeship for the eighth circuit, ten additional circuit judgeships for the ninth circuit, one additional circuit judgeship for the tenth circuit, and two additional circuit judgeships for the District of Columbia."

EXECUTIVE ORDER NO. 11972

Ex. Ord. No. 11972, Feb. 14, 1977, 42 F.R. 9659, as amended by Ex. Ord. No. 11993, May 24, 1977, 42 F.R. 27197, formerly set out as a note under this section, which related to the United States Circuit Judge Nominating Commission, was revoked by Ex. Ord. No. 12059, May 11, 1978, 43 F.R. 20949, set out as a note below.

EX. ORD. NO. 12059. UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION

Ex. Ord. No. 12059, May 11, 1978, 43 F.R. 20949, as amended by Ex. Ord. No. 12097, Nov. 8, 1978, 43 F.R. 52455, provided:

By virtue of the authority vested in me as President by the Constitution and statutes of the United States of America, in order to clarify and amend the responsibilities of the various panels of the United States Circuit Judge Nominating Commission and to continue the Commission, it is hereby ordered as follows:

SECTION 1. *Establishment of the Commission.* There is hereby established the United States Circuit Judge Nominating Commission (hereinafter referred to as the "Commission"). The Commission shall be composed of thirteen panels, each of which shall, upon the request of the President, recommend for nomination as circuit judges persons whose character, experience, ability and commitment to equal justice under law, fully qualify them to serve in the Federal judiciary. Except as indicated below, each panel shall serve a geographic area set forth in 28 U.S.C. 41. The panels shall be as follows:

(1) Panel for the District of Columbia Circuit;
(2) Panel for the First Circuit;
(3) Panel for the Second Circuit;
(4) Panel for the Third Circuit;
(5) Panel for the Fourth Circuit;

(6) Panel for the Eastern Fifth Circuit, for the States of Alabama, Florida, Georgia and Mississippi;

(7) Panel for the Western Fifth Circuit, for the States of Louisiana and Texas, and the Canal Zone;

(8) Panel for the Sixth Circuit;

(9) Panel for the Seventh Circuit;

(10) Panel for the Eighth Circuit;

(11) Panel for the Southern Ninth Circuit, for the States of Arizona, California, and Nevada;

(12) Panel for the Northern Ninth Circuit, for the States of Alaska, Hawaii, Idaho, Montana, Oregon and Washington, and the Territory of Guam; and

(13) Panel for the Tenth Circuit.

A panel shall be designated as, *e.g.*, the "United States Circuit Judge Nominating Panel for the First Circuit."

SEC. 2. *Membership.* (a) The membership of the Commission shall consist of the combined memberships of the panels. The President may appoint a member of the Commission as its Chairman, with such duties as the President may assign.

(b) A panel shall be composed of a Chairman and such other members as the President may appoint;

(c) Each panel shall include members of both sexes and members of minority groups, and each panel shall include at least one lawyer from each State within a panel's area of responsibility.

(d) All members of the panel for the District of Columbia Circuit shall be persons residing within the District of Columbia or within twenty miles of its boundaries.

SEC. 3. *Functions of Panels.* (a) A panel shall begin functioning when the President or his designee notifies its Chairman that the President desires the panel's assistance in aid of his constitutional responsibility and discretion to select a nominee to fill a vacancy or vacancies on a United States Court of Appeals. Upon such notification, the panel shall:

(1) Give public notice of the vacancy or vacancies within the relevant geographic area, inviting suggestions as to potential nominees;

(2) Conduct inquiries to identify potential nominees;

(3) Conduct inquiries to identify those persons among the potential nominees who are well qualified to serve as a United States Circuit Judge; and

(4) Report to the President, within the time specified in the notification of the vacancy or vacancies, the results of its activities, including its recommendations as to the persons whom the panel considers best qualified to fill the vacancy or vacancies.

(b) The Panel for the District of Columbia Circuit shall have the additional function of recommending nominees for the United States District Court for the District of Columbia. In exercising this function, the panel shall use the standards set forth in Executive Order 12097 [set out as a note under section 133 of this title] and shall forward its recommendations to the Attorney General.

SEC. 4. *Standards for Selection of Proposed Nominees.* (a) Before transmitting to the President the names of the persons it deems best qualified to fill an existing vacancy or vacancies, a panel shall have determined:

(1) That those persons are members in good standing of at least one state bar, or the District of Columbia bar, and members in good standing of any other bars of which they may be members;

(2) That they possess, and have reputations for, integrity and good character;

(3) That they are of sound health;

(4) That they possess, and have demonstrated, outstanding legal ability and commitment to equal justice under law, and

(5) That their demeanor, character, and personality indicate that they would exhibit judicial temperament if appointed to the position of United States Circuit Judge.

(b) In selecting persons whose names will be transmitted to the President, a panel shall consider whether the training, experience, or expertise of certain of the well qualified individuals would help to meet a perceived need of the court of appeals on which the vacancy or vacancies exist.

(c) To implement the above standards, a panel may adopt such additional criteria or guidelines as it considers appropriate for the identification of potential nominees and the selection of those best qualified to serve as United States Circuit Judges.

(d) Each panel is encouraged to make special efforts to seek out and identify well qualified women and members of minority groups as potential nominees.

SEC. 5. *Ineligibility of Commission Members.* No person shall be considered by a panel as a potential nominee while serving as a Commission member or for a period of one year after termination of such service.

SEC. 6. *Travel Expenses and Financing.* (a) Members of the Commission shall receive no compensation from the Government of the United States for their service as members of the Commission, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703) for persons intermittently employed in the government service.

(b) All necessary expenses incurred in connection with the work of the Commission shall be paid from the appropriation for "Unanticipated Needs" in the Executive Office Appropriations Act or from such other funds as may be available.

(c) Expenditures authorized by this Section may be made only after the President has notified a panel's chairman that he desires the panel's assistance in accordance with Section 3 above, and before the termination of appointments to the panel in accordance with Section 7 below.

SEC. 7. *Term of Membership.* Unless extended by the President, each appointment to a panel shall terminate thirty days after submission of the panel's report to the President.

SEC. 8. *Termination of Commission.* The Commission shall terminate on December 31, 1978, unless sooner extended by the President.

SEC. 9. *Revocations.* Executive Order No. 11972 and Executive Order No. 11993 are hereby revoked.

JIMMY CARTER.

§ 45. Chief judges; precedence of judges

EFFECTIVE DATE OF 1958 AMENDMENT

Section 3 of Pub. L. 85-593, as amended by Pub. L. 95-486, § 4, Oct. 20, 1978, 92 Stat. 1632, provided that: "The amendments to sections 45 and 136 of title 28 of the United States Code, made by this Act shall take effect at the expiration of one year from the date of enactment [Aug. 6, 1958], of this Act."

§ 46. Assignment of judges; panels; hearings; quorum

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Cases and controversies shall be heard and determined by a court or panel of not more than three judges, unless a hearing or rehearing before the court in banc is ordered by a majority of the circuit judges of the circuit who are in regular active service. A court in banc shall consist of all circuit judges in regular active service.

[*See main edition for text of* (*d*)]

(As amended Oct. 20, 1978, Pub. L. 95-486, § 5(a), (b), 92 Stat. 1633.)

AMENDMENTS

1978—Pub. L. 95-486, § 5(b), substituted "panels" for "divisions" in section catchline.

Subsec. (c). Pub. L. 95-486, § 5(a), substituted "panel" for "division" and struck out provision authorizing a retired circuit judge to sit as a judge of the court en banc in the rehearing of a case if he sat in the court or division in the original hearing of such case.

§ 49. Assignment of judges to division to appoint special prosecutors

(a) Beginning with the two-year period commencing on the date of the enactment of this section, three judges or justices shall be assigned for each successive two-year period to a division of the United States Court of Appeals for the District of Columbia to be the division of the court for the purpose of appointing special prosecutors.

(b) Except as provided under subsection (f) of this section, assignment to such division of the court shall not be a bar to other judicial assignments during the term of such division.

(c) In assigning judges or justices to sit on such division of the court, priority shall be given to senior circuit judges and retired justices.

(d) The Chief Justice of the United States shall designate and assign three circuit court judges or justices, one of whom shall be a judge of the United States Court of Appeals for the District of Columbia, to such division of the court. Not more than one judge or justice or senior or retired judge or justice may be named to such division from a particular court.

(e) Any vacancy in such division of the court shall be filled only for the remainder of the two-year period in which such vacancy occurs and in the same manner as initial assignments to such division were made.

(f) Except as otherwise provided in chapter 39 of this title, no member of such division of the court who participated in a function conferred on the division under chapter 39 of this title involving a special prosecutor shall be eligible to participate in any judicial proceeding concerning a matter which involves such special prosecutor while such special prosecutor is serving in that office or which involves the exercise of such special prosecutor's official duties, regardless of whether such special prosecutor is still serving in that office.

(Added Pub. L. 95-521, title VI, § 602(a), Oct. 26, 1978, 92 Stat. 1873.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is Oct. 26, 1978.

Chapter 39 of this title, referred to in subsec. (f), means chapter 39 (§ 591 et seq.) of this title which was added by Pub. L. 95-521.

EFFECTIVE DATE

Section effective Oct. 26, 1978, see section 604 of Pub. L. 95-521, set out as an Effective Date note under section 591 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 593, 595 of this title.

CHAPTER 5—DISTRICT COURTS

SHORT TITLE OF 1978 AMENDMENTS

For Short Title of Pub. L. 95-408, Oct. 2, 1978, 92 Stat. 883, as "Federal District Court Organization Act of 1978", see Short Title note set out under section 1 of this title.

§ 84. California

STUDY OF JUDICIAL BUSINESS IN CENTRAL DISTRICT, CALIFORNIA AND EASTERN DISTRICT, NEW YORK AND RECOMMENDATIONS FOR CREATION OF NEW JUDICIAL DISTRICTS

Pub. L. 95-573, § 5, Nov. 2, 1978, 92 Stat. 2458, provided that: "Within one year after the date of enactment of this Act [Nov. 2, 1978], the Director of the Administrative Office of the United States Courts shall conduct a comprehensive study of the judicial business of the Central District of California and the Eastern District of New York, and shall make recommendations to the Congress with respect to the need for creation of new judicial districts from portions of the judicial districts referred to in this section or the immediately surrounding judicial districts."

§ 89. Florida

Florida is divided into three judicial districts to be known as the Northern, Middle, and Southern Districts of Florida.

Northern District

(a) The Northern District comprises the counties of Alachua, Bay, Calhoun, Dixie, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, and Washington.

Court for the Northern District shall be held at Gainesville, Marianna, Panama City, Pensacola, and Tallahassee.

Middle District

(b) The Middle District comprises the counties of Baker, Bradford, Brevard, Charlotte, Citrus, Clay, Columbia, De Soto, Duval, Flagler, Hamilton, Hardee, Hernando, Hillsborough, Lake, Lee, Manatee, Marion, Nassau, Orange, Osceola, Pasco, Pinellas, Polk, Putnam, St. Johns, Sarasota, Seminole, Sumter, Suwannee, Union, and Volusia.

Court for the Middle District shall be held at Fernandina, Fort Myers, Jacksonville, Live Oak, Ocala, Orlando, Saint Petersburg, and Tampa.

Southern District

(c) The Southern District comprises the counties of Broward, Collier, Dade, Glades, Hendry, Highlands, Indian River, Martin, Monroe, Okeechobee, Palm Beach, and St. Lucie.

Court for the Southern District shall be held at Fort Lauderdale, Fort Pierce, Key West, Miami, and West Palm Beach.

(As amended Oct. 2, 1978, Pub. L. 95-408, § 4(a), 92 Stat. 884.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-408, § 4(a)(1), added Madison to the counties comprising the Northern District.

Subsec. (b). Pub. L. 95-408, § 4(a)(2), deleted Madison from the counties comprising the Middle District.

EFFECTIVE DATE OF 1978 AMENDMENT; SAVINGS PROVISION

Section 5 of Pub. L. 95-408 provided that:

"(a) The amendments made by this Act [amending sections 89, 93, 97, 98, 104, 112, 114, and 133 of this title and enacting provisions set out as a note under section 81 of this title] shall take effect 180 days after the date of enactment of this Act [Oct. 2, 1978].

"(b) Nothing in this Act [amending sections 89, 93, 97, 98, 104, 112, 114, and 133 of this title and enacting provisions set out as a note under section 81 of this title] shall affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act."

§ 93. Illinois

Illinois is divided into three judicial districts to be known as the Northern, Central, and Southern Districts of Illinois.

Northern District

(a) The Northern District comprises two divisions.

(1) The Eastern Division comprises the counties of Cook, De Kalb, Du Page, Grundy, Kane, Kendall, Lake, La Salle, McHenry, and Will.

Court for the Eastern Division shall be held at Chicago.

(2) The Western Division comprises the counties of Boone, Carroll, Jo Daviess, Lee, Ogle, Stephenson, Whiteside, and Winnebago.

Court for the Western Division shall be held at Freeport and Rockford.

Central District

(b) The Central District comprises the counties of Adams, Brown, Bureau, Cass, Champaign, Christian, Coles, De Witt, Douglas, Edgar, Ford, Fulton, Greene, Hancock, Henderson, Henry, Iroquois, Kankakee, Knox, Livingston, Logan, McDonough, McLean, Macoupin, Macon, Marshall, Mason, Menard, Mercer, Montgomery, Morgan, Moultrie, Peoria, Piatt, Pike, Putnam, Rock Island, Sangamon, Schuyler, Scott, Shelby, Stark, Tazewell, Vermilion, Warren, and Woodford.

Court for the Central District shall be held at Danville, Peoria, Quincy, Rock Island, and Springfield.

Southern District

(c) The Southern District comprises the counties of Alexander, Bond, Calhoun, Clark, Clay, Clinton, Crawford, Cumberland, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Madison, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Union, Wabash, Washington, Wayne, White, and Williamson.

Court for the Southern District shall be held at Alton, Benton, Cairo, and East Saint Louis.

(As amended Oct. 2, 1978, Pub. L. 95-408, § 4(b)(1), 92 Stat. 884; Nov. 2, 1978, Pub. L. 95-573, § 1, 92 Stat. 2458.)

AMENDMENTS

1978—Pub. L. 95-408 substituted in introductory provisions "Northern, Central, and Southern Districts of Illinois" for "Northern, Southern, and Eastern Districts of Illinois".

Subsec. (a)(1). Pub. L. 95-573, § 1(1), struck out Kankakee from the counties comprising the Eastern Division of the Northern District.

Pub. L. 95-408 added Kankakee to the counties comprising the Eastern Division of the Northern District.

Subsec. (b). Pub. L. 95-573, § 1(2), added Kankakee to the counties comprising the Central District.

Pub. L. 95-408 substituted "Central District" for "Southern District" in subsec. heading, struck out the subsec. (b)(1) and (2) designations, which divided the former Southern District into a Northern and Southern Division, and in such newly created Central District, added the counties of Champaign, Coles, Douglas, Edgar, Ford, Iroquois, Moultrie, Piatt, Shelby, and Vermilion to, and deleted the counties of Bond, Calhoun, Jersey, and Madison from, those counties comprising the new Central District, and substituted provisions for the holding of a term of Court for the Central District at Danville, Peoria, Quincy, Rock Island, and Springfield for provisions for the holding of a term of Court for the Northern Division of the former Southern District at Peoria and Rock Island and for the Southern Division of the former Southern District at Alton, Quincy, and Springfield.

Subsec. (c). Pub. L. 95-408 substituted "Southern District" for "Eastern District" in subsec. heading, and in such Southern District added the counties of Bond, Calhoun, Jersey, and Madison to, and deleted the counties of Champaign, Coles, Douglas, Edgar, Ford, Iroquois, Kankakee, Moultrie, Piatt, Shelby and Vermilion from, those counties comprising the Southern District, and substituted provisions for the holding of a term of Court for the Southern District at Alton, Benton, Cairo, and East Saint Louis for provisions for the holding of a term of Court for the Eastern District at Benton, Cairo, Danville, and East Saint Louis.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 6 of Pub. L. 95-573 provided that:

"(a) Except as provided in subsection (b) of this section, the provisions of this Act [amending sections 93, 99, 112 and 118 of this title and enacting a provision set out as a note under section 84 of this title] shall take effect 180 days after the date of enactment of this Act [Nov. 2, 1978].

"(b) The provisions of section 5 of this Act [set out as a note under section 84 of this title] shall take effect on the date of enactment of this Act [Nov. 2, 1978].

"(c) Nothing in this Act [amending sections 93, 99, 112 and 118 of this title and enacting provisions set out as a note under section 84 of this title] shall affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act."

EFFECTIVE DATE OF 1978 AMENDMENT; SAVINGS PROVISION

Amendment by Pub. L. 95-408 effective 180 days after Oct. 2, 1978, such amendment not to affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act, see section 5 of Pub. L. 95-408, set out as an Effective Date of 1978 Amendment note under section 89 of this title.

§ 97. Kentucky

Kentucky is divided into two judicial districts to be known as the Eastern and Western Districts of Kentucky.

Eastern District

(a) The Eastern District comprises the counties of Anderson, Bath, Bell, Boone, Bourbon,

Boyd, Boyle, Bracken, Breathitt, Campbell, Carroll, Carter, Clark, Clay, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Gallatin, Garrard, Grant, Greenup, Harlan, Harrison, Henry, Jackson, Jessamine, Johnson, Kenton, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Mason, Menifee, Mercer, Montgomery, Morgan, Nicholas, Owen, Owsley, Pendleton, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Scott, Shelby, Trimble, Wayne, Whitley, Wolfe, and Woodford.

Court for the Eastern District shall be held at Ashland, Catlettsburg, Covington, Frankfort, Jackson, Lexington, London, Pikeville, and Richmond.

[*See main edition for text of* (*b*)]

(As amended Oct. 2, 1978, Pub. L. 95–408, § 2(a), 92 Stat. 883.)

Amendments

1978—Subsec. (a). Pub. L. 95–408 provided for the holding of a term of court at Ashland in the Eastern District of Kentucky.

Effective Date of 1978 Amendment; Savings Provision

Amendment by Pub. L. 95–408 effective 180 days after Oct. 2, 1978, such amendment not to affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act, see section 5 of Pub. L. 95–408, set out as an Effective Date of 1978 Amendment note under section 89 of this title.

§ 98. Louisiana

Louisiana is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of Louisiana.

[*See main edition for text of* (*a*) *and* (*b*)]

Western District

(c) The Western District comprises the parishes of Acadia, Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, Concordia, Jefferson Davis, De Soto, East Carroll, Evangeline, Franklin, Grant, Iberia, Jackson, Lafayette, La Salle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Saint Landry, Saint Martin, Saint Mary, Tensas, Union, Vermilion, Vernon, Webster, West Carroll, and Winn.

Court for the Western District shall be held at Alexandria, Lafayette, Lake Charles, Monroe, Opelousas, and Shreveport.

(As amended Oct. 2, 1978, Pub. L. 95–408, § 3(a), 92 Stat. 883.)

Amendments

1978—Subsec. (c). Pub. L. 95–408 struck out the par. (1) to (6) designations which had divided the parishes of the Western District into six divisions.

Effective Date of 1978 Amendment; Savings Provision

Amendment by Pub. L. 95–408 effective 180 days after Oct. 2, 1978, such amendment not to affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act, see section 5 of Pub. L. 95–408, set out as an Effective Date of 1978 Amendment note under section 89 of this title.

§ 99. Maine

Maine constitutes one judicial district.

Court shall be held at Bangor and Portland.

(As amended Nov. 2, 1978, Pub. L. 95–573, § 2, 92 Stat. 2458.)

Amendments

1978—Pub. L. 95–573 struck out provision for two separate divisions, (1) the Northern Division comprising the counties of Aroostook, Hancock, Penobscot, Piscataquis, Somerset, Waldo, and Washington and (2) the Southern Division comprising the counties of Androscoggin, Cumberland, Franklin, Kennebec, Knox, Lincoln, Oxford, Sagadahoc, and York.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–573 effective 180 days after Nov. 2, 1978, see section 6 of Pub. L. 95–573, set out as an Effective Date of 1978 Amendment note under section 93 of this title.

§ 104. Mississippi

Mississippi is divided into two judicial districts to be known as the northern and southern districts of Mississippi.

Northern District

(a) The northern district comprises four divisions.

(1) Eastern division comprises the counties of Alcorn, Attala, Chickasaw, Choctaw, Clay, Itawamba, Lee, Lowndes, Monroe, Oktibbeha, Prentiss, Tishomingo, and Winston.

Court for the eastern division shall be held at Aberdeen, Ackerman, and Corinth.

[*See main edition for text of* (*2*) *to* (*4*); (*b*)]

(As amended Oct. 2, 1978, Pub. L. 95–408, § 2(b), 92 Stat. 883.)

Amendments

1978—Subsec. (a)(1). Pub. L. 95–408 provided for the holding of a term of court at Corinth in the Eastern Division of the Northern District.

Effective Date of 1978 Amendment; Savings Provision

Amendment by Pub. L. 95–408 effective 180 days after Oct. 2, 1978, such amendment not to affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act, see section 5 of Pub. L. 95–408, set out as an Effective Date of 1978 Amendment note under section 89 of this title.

§ 112. New York

New York is divided into four judicial districts to be known as the Northern, Southern, Eastern, and Western Districts of New York.

Northern District

(a) The Northern District comprises the counties of Albany, Broome, Cayuga, Chenango, Clinton, Columbia, Cortland, Delaware, Essex,

Franklin, Fulton, Greene, Hamilton, Herkimer, Jefferson, Lewis, Madison, Montgomery, Oneida, Onondaga, Oswego, Otsego, Rensselaer, Saint Lawrence, Saratoga, Schenectady, Schoharie, Tioga, Tompkins, Ulster, Warren, and Washington.

Court for the Northern District shall be held at Albany, Auburn, Binghamton, Malone, Syracuse, and Utica.

Southern District

(b) The Southern District comprises the counties of Bronx, Dutchess, New York, Orange, Putnam, Rockland, Sullivan, and Westchester and concurrently with the Eastern District, the waters within the Eastern District.

Court for the Southern District shall be held at New York and White Plains.

Eastern District

(c) The Eastern District comprises the counties of Kings, Nassau, Queens, Richmond, and Suffolk and concurrently with the Southern District, the waters within the counties of Bronx and New York.

Court for the Eastern District shall be held at Brooklyn and Hempstead (including the village of Uniondale).

[*See main edition for text of (d)*]

(As amended Apr. 28, 1978, Pub. L. 95-271, § 1, 92 Stat. 221; Oct. 2, 1978, Pub. L. 95-408, § 4(c), 92 Stat. 885; Nov. 2, 1978, Pub. L. 95-573, § 3, 92 Stat. 2458.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-408, § 4(c)(1), added the counties of Columbia, Greene and Ulster to those counties comprising the Northern District of New York.

Subsec. (b). Pub. L. 95-573 provided for the holding of a term of court at White Plains in the Southern District of New York.

Pub. L. 95-408, § 4(c)(2), deleted Columbia, Greene, and Ulster from those counties comprising the Southern District of New York.

Subsec. (c). Pub. L. 95-271 substituted "and Hempstead (including the village of Uniondale)" for "Mineola, and Westbury".

EFFECTIVE DATE OF 1978 AMENDMENT; SAVINGS PROVISION

Amendment by Pub. L. 95-408 effective 180 days after Oct. 2, 1978, such amendment not to affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act, see section 5 of Pub. L. 95-408, set out as an Effective Date of 1978 Amendment note under section 89 of this title.

PRETERMISSION OF REGULAR SESSION OF COURT AT HEMPSTEAD AND HOLDING OF SPECIAL SESSION AT WESTBURY; PROCEDURES APPLICABLE, APPROPRIATIONS, ETC.

Sections 2 to 5 of Pub. L. 95-271 provided that:

"SEC. 2. The United States District Court for the Eastern District of New York, by order made anywhere within its district, may pretermit the regular session of court at Hempstead until Federal quarters and accommodations are available and ready for occupancy, except that for the entire period and such pretermission, a special session of the court shall be held at Westbury. Pretermission may be ordered without regard to the provisions of section 140(a) of title 28, United States Code.

"SEC. 3. Notwithstanding the provisions of section 142 of title 28, United States Code, the Administrator of General Services, at the request of the Director of the Administrative Office of the United States Courts, shall continue to provide existing quarters and accommodations at Westbury for the duration of the special session held pursuant to section 2 of this Act. Appropriations to the judicial branch of Government shall be available to the Director to make necessary disbursements for such quarters and accommodations, and to pay user charges as required by section 210 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490), at rates otherwise authorized by law.

"SEC. 4. Notwithstanding the provisions of section 456 of title 28, United States Code, any judge, and any officer or employee of the judicial branch, whose official station is, on the day before the date of enactment of this Act [Apr. 28, 1978], Westbury, may maintain that official station for the duration of the special session held pursuant to section 2 of this Act.

"SEC. 5. The Director of the Administrative Office of the United States Courts may pay travel and transportation expenses in accordance with subchapter II, chapter 57 of title 5, United States Code, to any officer or employee of the judicial branch whose official station changes as a consequence of this Act [enacting this provision and amending subsec. (c) of this section] and who relocates his residence incident to such change of official station."

§ 114. North Dakota

North Dakota constitutes one judicial district comprising four divisions.

(1) The Southwestern Division comprises the counties of Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Kidder, Logan, McIntosh, McLean, Mercer, Morton, Oliver, Sioux, Slope, and Stark.

Court for the Southwestern Division shall be held at Bismarck.

(2) The Southeastern Division comprises the counties of Barnes, Cass, Dickey, Eddy, Foster, Griggs, La Moure, Ransom, Richland, Sargent, Steele, and Stutsman.

Court for the Southeastern Division shall be held at Fargo.

(3) The Northeastern Division comprises the counties of Benson, Cavalier, Grand Forks, Nelson, Pembina, Ramsey, Rolette, Towner, Traill, and Walsh.

Court for the Northeastern Division shall be held at Grand Forks.

(4) The Northwestern Division comprises the counties of Bottineau, Burke, Divide, McHenry, McKenzie, Mountrail, Pierce, Renville, Sheridan, Ward, Wells, and Williams.

(As amended Oct. 2, 1978, Pub. L. 95-408, § 3(b), 92 Stat. 883.)

AMENDMENTS

1978—Par. (2). Pub. L. 95-408, § 3(b)(1), deleted Sheridan and Wells from the counties comprising the Southeastern Division.

Par. (3). Pub. L. 95-408, § 3(b)(2), deleted Bottineau, McHenry and Pierce from the counties comprising the Northeastern Division.

Par. (4). Pub. L. 95-408, § 3(b)(3), added Bottineau, McHenry, Pierce, Sheridan and Wells to those counties comprising the Northwestern Division.

EFFECTIVE DATE OF 1978 AMENDMENT; SAVINGS PROVISION

Amendment by Pub. L. 95-408 effective 180 days after Oct. 2, 1978, such amendment not to affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act, see section 5 of Pub. L. 95-408, set out as an Effective Date of 1978 Amendment note under section 89 of this title.

§ 118. Pennsylvania

Pennsylvania is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of Pennsylvania.

[*See main edition for text of (a) and (b)*]

Western District

(c) The Western District comprises the counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland.

Court for the Western District shall be held at Erie, Johnstown, and Pittsburgh.

(As amended Nov. 2, 1978, Pub. L. 95-573, § 4, 92 Stat. 2458.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-573 provided for the holding of a term of court at Johnstown in the Western District of Pennsylvania.

§ 132. Creation and composition of district courts

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1827 of this title.

§ 133. Appointment and number of district judges

The President shall appoint, by and with the advice and consent of the Senate, district judges for the several judicial districts, as follows:

Districts	*Judges*
Alabama:	
Northern	7
Middle	3
Southern	2
Alaska	2
Arizona	8
Arkansas:	
Eastern	3
Western	1
Eastern and Western	2
California:	
Northern	12
Eastern	6
Central	17
Southern	7
Colorado	6
Connecticut	5
Delaware	3
District of Columbia	15
Florida:	
Northern	3
Middle	9
Southern	12
Georgia:	
Northern	11
Middle	2
Southern	3
Hawaii	2
Idaho	2
Illinois:	
Northern	16
Central	3
Southern	2
Indiana:	
Northern	4
Southern	5
Iowa:	
Northern	1
Southern	2
Northern and Southern	1
Kansas	5
Kentucky:	
Eastern	4
Western	3
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	5
Maine	2
Maryland	9
Massachusetts	10
Michigan:	
Eastern	13
Western	4
Minnesota	5
Mississippi:	
Northern	2
Southern	3
Missouri:	
Eastern	4
Western	5
Eastern and Western	2
Montana	2
Nebraska	3
Nevada	3
New Hampshire	2
New Jersey	11
New Mexico	4
New York:	
Northern	3
Southern	27
Eastern	10
Western	3
North Carolina:	
Eastern	3
Western	3
Middle	3
North Dakota	2
Ohio:	
Northern	9
Southern	6
Oklahoma:	
Northern	2
Eastern	1
Western	3
Northern, Eastern, and Western	2
Oregon	5
Pennsylvania:	
Eastern	19
Middle	5
Western	10
Puerto Rico	7

Districts	*Judges*
Rhode Island	2
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	3
Middle	3
Western	3
Texas:	
Northern	9
Southern	13
Eastern	4
Western	6
Utah	3
Vermont	2
Virginia:	
Eastern	8
Western	4
Washington:	
Eastern	2
Western	5
West Virginia:	
Northern	1
Southern	3
Northern and Southern	1
Wisconsin:	
Eastern	4
Western	2
Wyoming	1

(As amended Oct. 2, 1978, Pub. L. 95-408, § 4(b)(2), 92 Stat. 885; Oct. 20, 1978, Pub. L. 95-486, § 1(c), 92 Stat. 1630.)

AMENDMENTS

1978—Pub. L. 95-486 altered the number of permanent district judgeships in the named districts as follows:

State	*Former*	*New*
Alabama:		
Northern	4	7
Middle	2	3
Southern	2	2
Alaska	2	2
Arizona	5	8
Arkansas:		
Eastern	1	3
Western	1	1
Eastern and Western	2	2
California:		
Northern	11	12
Eastern	3	6
Central	16	17
Southern	5	7
Colorado	4	6
Connecticut	4	5
Delaware	3	3
District of Columbia	15	15
Florida:		
Northern	2	3
Middle	6	9
Southern	7	12
Georgia:		
Northern	6	11
Middle	2	2
Southern	2	3
Hawaii	2	2
Idaho	2	2
Illinois:		
Northern	13	16
Central	2	3
Southern	2	2
Indiana:		
Northern	3	4
Southern	4	5
Iowa:		
Northern	1	1
Southern	1	2
Northern and Southern	1	1
Kansas	4	5
Kentucky:		
Eastern	2	4
Western	3	3
Eastern and Western	1	1
Louisiana:		
Eastern	9	13
Middle	1	2
Western	4	5
Maine	1	2
Maryland	7	9
Massachusetts	6	10
Michigan:		
Eastern	10	13
Western	2	4
Minnesota	4	5
Mississippi:		
Northern	2	2
Southern	3	3
Missouri:		
Eastern	3	4
Western	3	5
Eastern and Western	2	2
Montana	2	2
Nebraska	3	3
Nevada	2	3
New Hampshire	1	2
New Jersey	9	11
New Mexico	3	4
New York:		
Northern	2	3
Southern	27	27
Eastern	9	10
Western	3	3
North Carolina:		
Eastern	2	3
Western	2	3
Middle	2	3
North Dakota	2	2
Ohio:		
Northern	8	9
Southern	5	6
Oklahoma:		
Northern	1	2
Eastern	1	1
Western	2	3
Northern, Eastern, and Western	2	2
Oregon	3	5
Pennsylvania:		
Eastern	19	19
Middle	3	5
Western	10	10
Puerto Rico	3	7
Rhode Island	2	2
South Carolina	5	8
South Dakota	2	3
Tennessee:		
Eastern	3	3
Middle	2	3
Western	3	3
Texas:		
Northern	6	9
Southern	8	13
Eastern	3	4
Western	5	6
Utah	2	3
Vermont	2	2
Virginia:		
Eastern	6	8
Western	2	4
Washington:		
Eastern	1	2
Western	3	5

State	*Former*	*New*
West Virginia:		
Northern	1	1
Southern	2	3
Northern and Southern	1	1
Wisconsin:		
Eastern	3	4
Western	1	2
Wyoming	1	1

Pub. L. 95-408 substituted "Central" for "Southern" and "Southern" for "Eastern" in item relating to Illinois.

Effective Date of 1978 Amendment; Savings Provision

Amendment by Pub. L. 95-408 effective 180 days after Oct. 2, 1978, such amendment not to affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act, see section 5 of Pub. L. 95-408, set out as an Effective Date of 1978 Amendment note under section 89 of this title.

Effective Date of 1978 Amendment; Waiver of Standards and Guidelines; Failure to Comply

Section 7 of Pub. L. 95-486 provided that:

"(a) The first section and section 2 of this Act [amending this section and enacting provisions set out as notes under this section] shall take effect immediately upon the President's promulgation and publication of standards and guidelines for the selection, on the basis of merit, of nominees for United States district court judgeships authorized by this Act [amending sections 44, 46, 133, 1337, and 1445 of this title and section 5108 of Title 5, Government Organization and Employees, enacting provisions set out as notes under sections 41, 44, and 133 of this title, and amending a provision set out as a note under section 45 of this title].

"(b) The President may waive such standards and guidelines with respect to any nomination by notifying the Senate of the reasons for such waiver.

"(c) Following the promulgation and publication of such standards and guidelines, no nomination or appointment to a United States district court judgeship may be invalidated on the basis of the President's failure to comply with this section or with any standards or guidelines promulgated under this section.

"(d) This Act, other than the first section and section 2 [amending this section and enacting provisions set out as notes under this section] shall take effect on the date of enactment of this Act [Oct. 20, 1978]."

Section 11 of Pub. L. 95-486 provided that: "Notwithstanding any other provision of this Act the first section and section 2 [amending this section and enacting provisions set out as notes under this section] shall not take effect before November 1, 1978.

Additional Judgeships

Section 1(a) of Pub. L. 95-486 provided that: "The President shall appoint, by and with the advice and consent of the Senate, three additional district judges for the northern district of Alabama, one additional district judge for the middle district of Alabama, three additional district judges for the district of Arizona, two additional district judges for the eastern district of Arkansas, one additional district judge for the northern district of California, three additional district judges for the eastern district of California, one additional district judge for the central district of California, two additional district judges for the southern district of California, two additional district judges for the district of Colorado, one additional district judge for the district of Connecticut, one additional district judge for the northern district of Florida, three additional district judges for the middle district of Florida, five additional district judges for the southern district of Florida, five additional district judges for the northern district of Georgia, one additional district judge for the southern district of Georgia, three additional district judges for the northern district of Illinois, one additional district judge for the central district of Illinois, one additional district judge for the northern district of Indiana, one additional district judge for the southern district of Indiana, one additional district judge for the southern district of Iowa, one additional district judge for the district of Kansas, two additional district judges for the eastern district of Kentucky, four additional district judges for the eastern district of Louisiana, one additional district judge for the middle district of Louisiana, one additional district judge for the western district of Louisiana, one additional district judge for the district of Maine, two additional district judges for the district of Maryland, four additional district judges for the district of Massachusetts, three additional district judges for the eastern district of Michigan, two additional district judges for the western district of Michigan, one additional district judge for the district of Minnesota, one additional district judge for the eastern district of Missouri, two additional district judges for the western district of Missouri, one additional district judge for the district of Nevada, one additional district judge for the district of New Hampshire, two additional district judges for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the northern district of New York, one additional district judge for the eastern district of New York, one additional district judge for the eastern district of North Carolina, one additional district judge for the middle district of North Carolina, one additional district judge for the western district of North Carolina, one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the northern district of Oklahoma, two additional district judges for the district of Oregon, two additional district judges for the middle district of Pennsylvania, four additional district judges for the district of Puerto Rico, three additional district judges for the district of South Carolina, one additional district judge for the district of South Dakota, one additional district judge for the middle district of Tennessee, three additional district judges for the northern district of Texas, one additional district judge for the eastern district of Texas, five additional district judges for the southern district of Texas, one additional district judge for the western district of Texas, one additional district judge for the district of Utah, two additional district judges for the eastern district of Virginia, two additional district judges for the western district of Virginia, one additional district judge for the eastern district of Washington, one additional district judge for the western district of Washington, one additional district judge for the southern district of West Virginia, one additional district judge for the eastern district of Wisconsin, and one additional district judge for the western district of Wisconsin."

Kentucky, Minnesota, Ohio, and West Virginia

Section 2 of Pub. L. 95-486 provided that: "The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the eastern district of Kentucky, one additional district judge for the district of Minnesota, one additional district judge for the northern district of Ohio, and one additional district judge for the southern district of West Virginia. The first vacancy in the office of district judge in the judicial districts named in this section occurring five years or more after the effective date of this Act [Oct. 20, 1978] shall not be filled."

Washington

Section 1(b) of Pub. L. 95-486 provided that: "The existing district judgeship for the eastern and western districts of Washington, heretofore provided for by section 133 of title 28 of the United States Code, shall hereafter be a district judgeship for the western district of Washington only, and the present incumbent of such judgeship shall henceforth hold his office under section 133, as amended by this Act."

Nomination of Women and Blacks to Federal Judgeships

Section 8 of Pub. L. 95-486 provided that:

"The Congress—

"(1) takes notice of the fact that only 1 percent of Federal judges are women and only 4 percent are blacks; and

"(2) suggests that the President, in selecting individuals for nomination to the Federal judgeships created by this Act [for classification see Effective Date of 1978 Amendment note above], give due consideration to qualified individuals regardless of race, color, sex, religion, or national origin."

Ex. Ord. No. 12084. Judicial Nominating Commission for the District of Puerto Rico

Ex. Ord. No. 12084, Sept. 27, 1978, 43 F.R. 44815, as amended by Ex. Ord. No. 12097, Nov. 8, 1978, 43 F.R. 52455, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to create in accord with the Federal Advisory Committee Act (5 U.S.C. App.) an advisory committee on judicial nominations for the District of Puerto Rico, it is hereby ordered as follows:

1-1. Establishment of the Commission

1-101. There is established the Judicial Nominating Commission for the District of Puerto Rico.

1-102. The Commission shall have seven members appointed by the President. The President shall designate a Chairman from among the members.

1-2. Functions of the Commission

1-201. The Commission shall begin functioning when the President or his designee notifies the Chairman that the President desires the Commission's assistance in identifying persons qualified to fill a vacancy on the United States District Court for the District of Puerto Rico.

1-202. Upon receiving such notification, the Commission shall:

(a) give public notice of the vacancy, inviting suggestions as to potential nominees;

(b) conduct inquiries to identify potential nominees;

(c) conduct inquiries to identify, among the potential nominees, persons who are well qualified to serve as a United States District Judge; and

(d) report to the Attorney General, within the time specified in the notification, the results of its activities, including a list of persons whom the Commission considers to be best qualified to fill the vacancy.

1-203. In evaluating potential nominees, the Commission shall use the standards prescribed in Executive Order 12097 [set out as a note below].

1-3. Administrative Provisions

1-301. Members of the Commission shall serve without compensation. While engaged in the work of the Commission, members may receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703).

1-302. The Attorney General shall furnish to the Commission necessary administrative support.

1-303. All necessary expenses incurred in connection with the work of the Commission, to the extent permitted by law, shall be paid from funds available to the Attorney General.

1-4. General Provisions

1-401. A person who is a member of the Commission shall not, during the period of membership and for one year after that period, be considered by the Commission as a potential nominee.

1-402. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.), except that of reporting annually to the Congress, which are applicable to the Commission, shall be performed by the Attorney General in accordance with the guidelines and procedures established by the Administrator of General Services.

1-403. The Commission shall terminate on December 31, 1978, unless sooner extended by the President.

Jimmy Carter.

Ex. Ord. No. 12097. Standards and Guidelines for Merit Selection of District Judges

Ex. Ord. No. 12097, Nov. 8, 1978, 43 F.R. 52455, provided:

By virtue of the authority vested in me as President by the Constitution and the statutes of the United States of America, including Section 7(a) of the Omnibus Judgeship Act of 1978 [set out above as an Effective Date of 1978 Amendment note], providing that the President shall promulgate and publish standards and guidelines for the selection of nominees for United States district court judgeships, it is hereby ordered as follows:

1-1. Nomination of District Judges

1-101. Whenever a vacancy occurs in a district court of the United States, the President shall nominate as district judge to fill that vacancy a person whose character, experience, ability, and commitment to equal justice under law qualifies that person to serve in the federal judiciary.

1-102. The Attorney General shall assist the President by recommending to the President persons to be considered for appointment who are qualified to be district judges and by evaluating potential nominees. The Attorney General shall receive recommendations of such persons from any person, commission or organization.

1-103. The use of commissions to notify the public of vacancies and to make recommendations for district judge is encouraged. The Attorney General shall make public the suggested guidelines for such commissions.

1-104. Before making recommendations, the Attorney General shall consider whether:

(a) Public notice of the vacancy has been given and an affirmative effort has been made, in the case of each vacancy, to identify qualified candidates, including women and members of minority groups;

(b) The selection process was fair and reasonable;

(c) The person or persons recommended meet the standards for evaluation set forth in Section 1-2 of this Order.

1-105. In evaluating proposed nominees, consideration will be given to reports of Department of Justice investigations and all other relevant information concerning potential nominees and their qualifications.

1-2. Standards for Evaluating Proposed Nominees

1-201. The standards to be used in determining whether a person is qualified to serve as a district judge are whether that person:

(a) Is a citizen of the United States, is a member of a bar of a state, territory, possession or the District of Columbia, and is in good standing in every bar in which that person is a member;

(b) Possesses, and has a reputation for, integrity, good character, and common sense;

(c) Is, and has a reputation for being, fair, experienced, even-tempered and free of biases against any class of citizens or any religious or racial group;

(d) Is of sound physical and mental health;

(e) Possesses and has demonstrated commitment to equal justice under law;

(f) Possesses and has demonstrated outstanding legal ability and competence, as evidenced by substantial legal experience, ability to deal with complex legal problems, aptitude for legal scholarship and writing, and familiarity with courts and their processes;

(g) Has the ability and the willingness to manage complicated pretrial and trial proceedings, including the ability to weigh conflicting testimony and make factual determinations, and to communicate skillfully with jurors and witnesses.

1-3. Amendments of Existing Orders

1-301. Section 3(b) of Executive Order 12059 [set out as a note under section 44 of this title], of May 11, 1978 is amended to read as follows:

"(b) The Panel for the District of Columbia Circuit shall have the additional function of recommending nominees for the United States District Court for the District of Columbia. In exercising this function, the panel shall use the standards set forth in Executive Order 12097 and shall forward its recommendations to the Attorney General.".

1-302. Executive Order 12084 [set out as a note above], of September 27, 1978 is amended in the following respects:

(1) Section 1-202(d) is amended to read as follows:

"(d) report to the Attorney General, within the time specified in the notification, the results of its activities, including a list of persons whom the Commission considers to be best qualified to fill the vacancy.".

(2) Section 1-203 is amended to read as follows:

"1-203. In evaluating potential nominees, the Commission shall use the standards prescribed in Executive Order 12097.".

Jimmy Carter.

§ 135. Salaries of district judges

Increase of Salaries

Salaries of district judges increased to $57,500 effective on the first day of the first pay period beginning on or after Oct. 1, 1978, by Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, set out as a note under section 5332 of Title 5, Government Organization and Employees. Ex. Ord. No. 12087, further provided that pursuant to the Legislative Branch Appropriation Act, 1979 [Pub. L. 95-391, title III, § 304, Sept. 30, 1978, 92 Stat. 788, set out as a note under section 5318 of Title 5], funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1978, which was $54,500.

§ 136. Chief judges; precedence of district judges

Effective Date of 1958 Amendment

Amendment by Pub. L. 85-593 effective at the expiration of one year from Aug. 6, 1958, see section 3 of Pub. L. 85-593, as amended, set out as an Effective Date of 1958 Amendment note under section 45 of this title.

§ 142. Accommodations at places for holding court

Court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States. The foregoing restrictions shall not, however, preclude the Administrator of General Services, at the request of the Director of the Administrative Office of the United States Courts, from providing such court quarters and accommodations as the Administrator determines can appropriately be made available at places where regular terms of court are authorized by law to be held, but only if such court quarters and accommodations have been approved as necessary by the judicial council of the appropriate circuit. The limitations and restrictions contained in this section shall not be applicable to the furnishing of accommodations to judges of the courts of appeals at places where Federal facilities are available and the judicial council of the circuit approves.

(As amended Nov. 19, 1977, Pub. L. 95-196, 91 Stat. 1420.)

Amendments

1977—Pub. L. 95-196 added provision that the limitations and restrictions contained in this section not be applicable to the furnishing of accommodations to judges of the courts of appeals at places where Federal facilities are available and the judicial council of the circuit approves.

CHAPTER 6—BANKRUPTCY COURTS

Sec.
151. Creation and composition of bankruptcy courts.
152. Appointment of bankruptcy judges.
153. Tenure and residence of bankruptcy judges.
154. Salaries of bankruptcy judges.
155. Chief judge; precedence of bankruptcy judges.
156. Division of business among bankruptcy judges.
157. Times of holding court.
158. Accommodations at places for holding court.
159. Vacant judgeship as affecting proceedings.
160. Appellate panels.

Courts During Transition

Pub. L. 95-598, title IV, § 404, Nov. 6, 1978, 92 Stat. 2683, provided that:

"(a) The courts of bankruptcy, as defined under section 1(10) of the Bankruptcy Act [section 1(10) of Title 11, Bankruptcy], created under section 2a of the Bankruptcy Act [section 11(a) of Title 11], and existing on September 30, 1979, shall continue through March 31, 1984, to be the courts of bankruptcy for the purposes of this Act and the amendments made by this Act [see Tables for complete classification of Pub. L. 95-598]. Each of the courts of bankruptcy so continued shall constitute a separate department of the district court that is such court of bankruptcy under the Bankruptcy Act.

"(b) The term of a referee in bankruptcy who is serving on the date of enactment of this Act [Nov. 6, 1978] is extended to and expires on March 31, 1984 or when his successor takes office. During the period commencing on October 1, 1979, and ending on March 31, 1984 (hereinafter in this title referred to as the transition period'), unless such referee is found to be not qualified by the Chief Judge of the Circuit Court after consultation with a merit screening committee established as provided in subsection (c) of this section, such a referee in bankruptcy upon the expiration of his appointed term as referee shall have the title of United States bankruptcy judge, and shall serve in the court of bankruptcy continued under subsection (a) of this section that appointed such United States bankruptcy judge, in the manner prescribed by this title. Section 8335(a) of title 5 of the United States Code shall not apply in respect of United States bankruptcy judges during the transition period.

"(c) There shall be established for each State a merit screening committee composed of the president or the designee of the president of the State bar association, the dean or the designee of the dean of a law school located within the State, and the president or designee of the president of a local bar association for the area wherein a referee in bankruptcy maintains his official headquarters within the State. Each such merit screening committee shall be organized and summoned to meetings by the circuit executive for the circuit embracing the State, who shall serve as secretary of each such screening committee established within the circuit. Before the expiration of the term of a referee in bankruptcy in office on the date of enactment of this Act [Nov. 6, 1978], or if his successor has not been appointed before the date of enactment of this Act, a merit screening committee shall be organized by the circuit executive to pass on the qualifications of such referee for the purpose of determining whether the term of such referee shall be extended as provided under subsection (b) of this section.

"(d) Except as otherwise provided in this section or in section 407 of this Act [section 407 of Pub. L. 95-598, set out as a note below], matters relating to the office of United States bankruptcy judges and to United States bankruptcy judges shall continue to be governed during the transition period by the rules set forth in sections 34, 35, 36, 40a, 40b, 40d, 41, and 43 of the Bankruptcy Act [sections 62, 63, 64, 68(a), (b), and (d), 69, and 71 of Title 11, Bankruptcy] as such Act existed on September 30, 1979. A court of bankruptcy may not appoint an individual under such section 34 [section 62 of Title 11] if the merit screening committee established under subsection (c) of this section for the district of such court finds such individual to be not qualified.

"(e) During the transition period, the United States bankruptcy judges of each district may appoint a clerk, necessary other employees, including law clerks and secretaries, and court reporters the same as the judges of a United States bankruptcy court established under section 201 of this Act [enacting this chapter] may appoint such officers and employees under the amendment made by section 233 of this Act [enacting section 771 et seq. of this title]. Such clerk, other employees, and reporters shall have the same rights and powers, shall perform the same functions and duties and shall be subject to the same provisions of title 28 of the United States Code, as a clerk, other employee, or reporter, as the case may be, appointed under the amendment made by section 233 of this Act by a United States bankruptcy court established under section 201 of this Act. The United States bankruptcy judges of each district shall have the same rights and powers as a United States bankruptcy court established under section 201 of this Act with respect to such clerk, other employees, and reporters.

"(f) During the transition period, the provisions of sections 455, 456, 569(a), 571(b), 620(b)(3), and 957(a) of title 28 of the United States Code shall apply to United States bankruptcy judges and to any court officers or employees appointed or employed under subsection (e) of this section the same as such sections apply to the bankruptcy judges, and to any court officers or employees, of a United States bankruptcy court established under section 201 of this Act [enacting this chapter]. During the transition period, the position of United States bankruptcy judge shall be deemed to be a position within the purview of subparagraph (C) of section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356(C)).

"(g) During the transition period, the Judicial Conference of the United States may from time to time in the light of the recommendations of the judicial councils of each circuit, made after advising with the district judges and the United States bankruptcy judges of the respective circuit, and of the Director of the Administrative Office of the United States Courts, increase the number of full-time United States bankruptcy judges, or provide that a part-time United States bankruptcy judge for a particular district may serve in the capacity and receive the salary of a full-time United States bankruptcy judge, as the expeditious transaction of the business of the several courts of bankruptcy may require."

TRANSITION STUDY

Pub. L. 95-598, title IV, § 406, Nov. 6, 1978, 92 Stat. 2686, provided that:

"(a)(1) During the transition period, the Director of the Administrative Office of the United States Courts shall make continuing studies and surveys of conditions in the judicial districts to determine—

"(A) the number of bankruptcy judges of the United States bankruptcy courts established under section 201 of this Act [enacting this chapter] that will be needed after March 31, 1984, to provide for the expeditious and effective administration of justice; and

"(B) the regular places of offices and the places at which courts shall be held.

"(2) In the course of any survey, the Director shall take into account local conditions in each judicial district, including the areas and the population to be served, the transportation and communications facilities available, the average number and types of bankruptcy cases filed and closed during the transition period, the number of cases pending and judicial matters heard, and any other material factors. The Director shall give consideration to suggestions from any interested parties.

"(b) Upon completion of the studies and surveys required by subsection (a) of this section, the Director shall report to the judicial councils of the circuits and the Judicial Conference of the United States his recommendations concerning the number of bankruptcy judges, their principal places of offices, and the places where court shall be held. The judicial councils shall advise the Conference, stating their recommendations and the reasons therefor. The Conference shall recommend to the Congress and to the President, before January 3, 1983, in light of the recommendations of the Director and the judicial councils, the number of bankruptcy judges of the United States bankruptcy courts established under section 201 of this Act [enacting this chapter] that will be needed after March 31, 1984, and the locations at which they shall serve."

JUDICIAL ADMINISTRATION DURING TRANSITION

Pub. L. 95-598, title IV, § 407, Nov. 6, 1978, 92 Stat. 2686 provided that:

"(a) The Director of the Administrative Office of the United States Courts shall appoint a committee of not fewer than seven United States bankruptcy judges to advise the Director with respect to matters that arise during the transition period or that are relevant to the purposes of the transition period.

"(b) During the transition period, the Congress strongly recommends at least one-third of the members of any committee of the Judicial Conference of the United States that is concerned with the administration of the bankruptcy system shall be chosen from among the United States bankruptcy judges, and at least one member of any committee of the Judicial Conference that is concerned with court administration, supporting personnel, or bankruptcy court rules shall be chosen from among the United States bankruptcy judges.

"(c) During the transition period, the chief judge of each circuit shall summon at least one bankruptcy judge from each judicial district within the circuit to the judicial conference of such circuit called and held under section 332 of title 28 of the United States Code."

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1869 of this title; title 5 section 8331; title 18 section 6001.

§ 151. Creation and composition of bankruptcy courts

(a) There shall be in each judicial district, as an adjunct to the district court for such district, a bankruptcy court which shall be a court of record known as the United States Bankruptcy Court for the district.

(b) Each bankruptcy court shall consist of the bankruptcy judge or judges for the district in regular active service. Justices or judges designated and assigned shall be competent to sit as judges of the bankruptcy court.

(c) Except as otherwise provided by law, or rule or order of court, the judicial power of a bankruptcy court with respect to any action, suit or proceeding may be exercised by a single bankruptcy judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other bankruptcy judges.

(Added Pub. L. 95-598, title II, § 201(a), Nov. 6, 1978, 92 Stat. 2657.)

EFFECTIVE DATE

Chapter effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 152. Appointment of bankruptcy judges

The President shall appoint, by and with the advice and consent of the Senate, bankruptcy judges for the several judicial districts. In each instance, the President shall give due consideration to the recommended nominee or nominees of the Judicial Council of the Circuit within which an appointment is to be made.

(Added Pub. L. 95-598, title II, § 201(a), Nov. 6, 1978, 92 Stat. 2657.)

§ 153. Tenure and residence of bankruptcy judges

(a) Each bankruptcy judge shall hold office for a term of 14 years, but may continue to perform the duties of his office until his successor takes office, unless such office has been eliminated.

(b) Removal of a bankruptcy judge during the term for which he is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability. Removal shall be by the judicial council of the circuit or circuits in which the bankruptcy judge serves, but removal may not occur unless a majority of all the judges of such circuit council or councils concur in the order of removal. Before any order of removal may be entered, a full specification of the charges shall be furnished to the bankruptcy judge, and he shall be accorded an opportunity to be heard on the charges. Any cause for removal of any bankruptcy judge coming to the knowledge of the Director of the Administrative Office of the United States Courts shall be reported by him to the chief judge of the circuit or circuits in which he serves, and a copy of the report shall at the same time be transmitted to the circuit council or councils and to the bankruptcy judge.

(c) Each bankruptcy judge shall reside in the district or one of the districts for which he is appointed, or within 20 miles of his official station.

(d) If the public interest and the nature of the business of a bankruptcy court require that a bankruptcy judge should maintain his abode at or near a particular part of the district the judicial council of the circuit may so declare and may make an appropriate order. If the bankruptcy judges of such a district are unable to agree as to which of them shall maintain his abode at or near the place or within the area specified in such an order the judicial council of the circuit may decide which of them shall do so.

(Added Pub. L. 95-598, title II, § 201(a), Nov. 6, 1978, 92 Stat. 2657.)

§ 154. Salaries of bankruptcy judges

Each judge of a bankruptcy court shall receive a salary at an annual rate of $50,000, subject to adjustment under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), and section 461 of this title.

(Added Pub. L. 95-598, title II, § 201(a), Nov. 6, 1978, 92 Stat. 2658.)

REFERENCES IN TEXT

Section 225 of the Federal Salary Act of 1967, referred to in text, is section 225 of Pub. L. 90-206, title II Dec. 16, 1967, 81 Stat. 642, as amended, which is classified to chapter 11 § 351 et seq.) of Title 2, The Congress.

§ 155. Chief judge; precedence of bankruptcy judges

(a) In each district having more than one judge the bankruptcy judge in regular active service who is senior in commission and under seventy years of age shall be the chief judge of the bankruptcy court. If all the bankruptcy judges in regular active service are 70 years of age or older the youngest shall act as chief judge until a judge has been appointed and qualified who is under 70 years of age, but a judge may not act as chief judge until he has served as a bankruptcy judge for one year.

(b) The chief judge shall have precedence and preside at any session which he attends.

Other bankruptcy judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

(c) A judge whose commission extends over more than one district shall be junior to all bankruptcy judges except in the district in which he resided at the time he entered upon the duties of his office.

(d) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as a bankruptcy judge, he may so certify to the chief judge of the court of appeals for the circuit in which the bankruptcy judge serves, and thereafter the bankruptcy judge in active service next in precedence and willing to serve shall be designated by the chief judge of the court of appeals as the chief judge of the bankruptcy court.

(e) If a chief judge is temporarily unable to perform his duties as such, they shall be performed by the bankruptcy judge in active service, present in the district and able and qualified to act, who is next in precedence.

(f) Service as a referee in bankruptcy or as a bankruptcy judge under the Bankruptcy Act shall be taken into account in the determination of seniority of commission under this section.

(Added Pub. L. 95-598, title II, § 201(a), Nov. 6, 1978, 92 Stat. 2658.)

REFERENCES IN TEXT

The Bankruptcy Act, referred to in subsec. (f), is act July 1, 1898, ch. 541, 30 Stat. 544, as amended, which was classified generally to Title 11, Bankruptcy, and which was repealed effective Oct. 1, 1979 by sections 401(a) and 402(a) of Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2682.

§ 156. Division of business among bankruptcy judges

The business of a bankruptcy court having more than one judge shall be divided among the judges as provided by the rules and orders of the court.

The chief judge of the bankruptcy court shall be responsible for the observance of such rules and orders, and shall divide the business and assign the cases so far as such rules and orders do not otherwise prescribe.

If the bankruptcy judges in any district are unable to agree upon the adoption of rules or orders for that purpose the judicial council of the circuit shall make the necessary orders.

(Added Pub. L. 95-598, title II, § 201(a), Nov. 6, 1978, 92 Stat. 2659.)

§ 157. Times of holding court

(a) The bankruptcy court at each designated location shall be deemed to be in continuous session on all business days throughout the year.

(b) Each bankruptcy court may establish by local rule or order schedules of court sessions at designated places of holding court other than the headquarters office of the court. Such schedules may be pretermitted by order of the court.

(c) Bankruptcy court may be held at any place within the territory served, in any case, on order of the bankruptcy court, for the convenience of the parties, on such notice as the bankruptcy court orders.

(Added Pub. L. 95-598, title II, § 201(a), Nov. 6, 1978, 92 Stat. 2659.)

§ 158. Accommodations at places for holding court

Court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States. The foregoing restrictions shall not, however, preclude the Administrator of General Services, at the request of the Director of the Administrative Office of the United States Courts, from providing such court quarters and accommodations as the Administrator determines can appropriately be made available at places where court is authorized by law to be held, but only if such court quarters and accommodations have been approved as necessary by the judicial council of the appropriate circuit.

(Added Pub. L. 95-598, title II, § 201(a), Nov. 6, 1978, 92 Stat. 2659.)

§ 159. Vacant judgeship as affecting proceedings

When the office of a bankruptcy judge becomes vacant, all pending process, pleadings and proceedings shall, when necessary, be continued by the clerk until a judge is appointed or designated to hold such court.

(Added Pub. L. 95-598, title II, § 201(a), Nov. 6, 1978, 92 Stat. 2659.)

§ 160. Appellate panels

(a) If the circuit council of a circuit orders application of this section to a district within such circuit, the chief judge of each circuit shall designate panels of three bankruptcy judges to hear appeals from judgments, orders, and decrees of the bankruptcy court of the United States for such district. Except as provided in section 293(e) of this title, a panel shall be composed only of bankruptcy judges for districts located in the circuit in which the appeal arises. The chief judge shall designate a sufficient number of such panels so that appeals may be heard and disposed of expeditiously.

(b) A panel designated under subsection (a) of this section may not hear an appeal from a judgment, order, or decree entered by a member of the panel.

(c) When hearing an appeal, a panel designated under subsection (a) of this section shall sit at a place convenient to the parties to the appeal.

(Added Pub. L. 95-598, title II, § 201(a), Nov. 6, 1978, 92 Stat. 2659.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1293, 1294, 1334, 1482 of this title.

CHAPTER 7—COURT OF CLAIMS

§ 173. Tenure and salaries of judges

INCREASE OF SALARIES

Salaries of judges increased to $60,700 effective on the first day of the first pay period beginning on or after Oct. 1, 1978, by Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, set out as a note under section 5332 of Title 5, Government Organization and Employees. Ex. Ord. No. 12087, further provided that pursuant to the Legislative Branch Appropriation Act, 1979 [Pub. L. 95-391, title III, § 304, Sept. 30, 1978, 92 Stat. 788, set out as a note under section 5318 of Title 5], funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1978, which was $57,500.

CHAPTER 9—COURT OF CUSTOMS AND PATENT APPEALS

§ 213. Tenure and salaries of judges

INCREASE OF SALARIES

Salaries of judges increased to $60,700 effective on the first day of the first pay period beginning on or after Oct. 1, 1978, by Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, set out as a note under section 5332 of Title 5, Government Organization and Employees. Ex. Ord. No. 12087, further provided that pursuant to the Legislative Branch Appropriation Act, 1979 [Pub. L. 95-391, title III, § 304, Sept. 30, 1978, 92 Stat. 788, set out as a note under section 5318 of Title 5], funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1978, which was $57,500.

CHAPTER 11—CUSTOMS COURT

§ 252. Tenure and salaries of judges

INCREASE OF SALARIES

Salaries of judges increased to $57,500 effective on the first day of the first pay period beginning on or after Oct. 1, 1978, by Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, set out as a note under section 5332 of Title 5, Government Organization and Employees. Ex. Ord. No. 12087, further provided that pursuant to the Legislative Branch Appropriation Act, 1979 [Pub. L. 95-391, title III, § 304, Sept. 30, 1978, 92 Stat. 788, set out as a note under section 5318 of Title 5], funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1978, which was $54,500.

CHAPTER 13—ASSIGNMENT OF JUDGES TO OTHER COURTS

§ 291. Circuit judges

[*See main edition for text of* (*a*) *and* (*b*)]

(c) The chief judge of a circuit or the circuit justice may, in the public interest, designate and assign temporarily any circuit judge within the circuit, including a judge designated and assigned to temporary duty therein, to hold a district or bankruptcy court in any district within the circuit.

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 202, 92 Stat.

Amendments

1978—Subsec. (c). Pub. L. 95-598 substituted "to hold a district or bankruptcy court" for "to hold a district court".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 292. District judges

[*See main edition for text of* (*a*)]

(b) The chief judge of a circuit may, in the public interest, designate and assign temporarily any district judge of the circuit to hold a district court or a bankruptcy court in any district within the circuit.

[*See main edition for text of* (*c*)]

(d) The Chief Justice of the United States may designate and assign temporarily a district judge of one circuit for service in another circuit, in a bankruptcy court, district court, or court of appeals, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.

[*See main edition for text of* (*e*)]

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, §§ 203, 204, 92 Stat. 2660.)

Amendments

1978—Subsec. (b). Pub. L. 95-598, § 203, substituted "to hold a district court or a bankruptcy court" for "to hold a district court".

Subsec. (d). Pub. L. 95-598, § 204, substituted "in a bankruptcy court, district court, or court of appeals" for "either in a district court or court of appeals".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 293. Judges of other courts

[*See main edition for text of* (*a*) *to* (*d*)]

(e)(1) The Chief Justice of the United States may designate and assign temporarily a bankruptcy judge of one circuit for service in a bankruptcy court in another circuit upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.

(2) The chief judge of a circuit may, in the public interest, designate and assign temporarily a bankruptcy judge of the circuit to hold a bankruptcy court in any district within the circuit.

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 205, 92 Stat. 2660.)

Amendments

1978—Subsec. (e). Pub. L. 95-598 added subsec. (e).

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

Section Referred to in Other Sections

This section is referred to in section 160 of this title.

§ 294. Assignment of retired Justices or judges to active duty

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Any retired circuit district or bankruptcy judge judge[1] may be designated and assigned by the chief judge or judicial council of his circuit to perform such judicial duties within the circuit as he is willing and able to undertake. Any other retired judge of the United States may be designated and assigned by the chief judge of his court to perform such judicial duties in such court as he is willing and able to undertake.

(d) The Chief Justice of the United States shall maintain a roster of retired judges of the United States who are willing and able to undertake special judicial duties from time to time outside their own circuit, in the case of a retired circuit, district judge or bankruptcy judge,[2] or in a court other than their own, in the case of other retired judges, which roster shall be known as the roster or senior judges. Any such retired judge of the United States may be designated and assigned by the Chief Justice to perform such judicial duties as he is willing and able to undertake in a court outside his own circuit, in the case of a retired circuit, district judge or bankruptcy judge,[2] or in a court other than his own, in the case of any other retired judge of the United States. Such designation and assignment to a court of appeals or district court shall be made upon the presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises and to any other court of the United States upon the presentation of a certificate of necessity by the chief judge of such court. No such designation or assignment shall be made to the Supreme Court.

[*See main edition for text of* (*e*)]

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 206, 92 Stat. 2660.)

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[1] So in original. Probably should read "circuit, district, or bankruptcy judge".

[2] So in original. Probably should read "circuit, district, or bankruptcy judge,".

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-598, § 206(1), added reference to retired bankruptcy judges.

Subsec. (d). Pub. L. 95-598, § 206(2), added reference to retired bankruptcy judges.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 295. Conditions upon designation and assignment

No designation and assignment of a circuit[1] district, or bankruptcy judge in active service shall be made without the consent of the chief judge or judicial council of the circuit from which the judge is to be designated and assigned. No designation and assignment of a judge of any other court of the United States in active service shall be made without the consent of the chief judge of such court.

[*See main edition for text of 2d and 3d unnumbered pars.*]

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 207, 92 Stat. 2660.)

AMENDMENTS

1978—Pub. L. 95-598 added reference to bankruptcy judges.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

CHAPTER 15—CONFERENCES AND COUNCILS OF JUDGES

§ 331. Judicial Conference of the United States

The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of Claims, the chief judge of the Court of Customs and Patent Appeals, a district judge from each judicial circuit, and two bankruptcy judges to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States. Special sessions of the conference may be called by the Chief Justice at such times and places as he may designate.

The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit at the annual judicial conference of the circuit held pursuant to section 333 of this title and shall serve as a member of the conference for three successive years, except that in the year following the enactment of this amended section the circuit and district judges in the first, fourth, seventh, and tenth circuits shall choose a district judge to serve for one year, the circuit and district judges in the second, fifth, and eighth circuits shall choose a district judge to serve for two years and the circuit and district judges in the third, sixth, ninth, and District of Columbia circuits shall choose a district judge to serve for three years. The bankruptcy judges to be summoned shall be chosen at large by all the bankruptcy judges. Each bankruptcy judge chosen shall serve as a member of the conference for three successive years, except that in the year following the effective date of this sentence the bankruptcy judges shall choose one bankruptcy judge to serve for two years.

If the chief judge of any circuit or the district judge chosen by the judges of the circuit or a bankruptcy judge chosen by the bankruptcy judges is unable to attend, the Chief Justice may summon any other circuit or district judge from such circuit or any other bankruptcy judge. If the chief judge of the Court of Claims, or the chief judge of the Court of Customs and Patent Appeals is unable to attend, the Chief Justice may summon an associate judge of such court. Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the sessions of the conference and advise as to the needs of his circuit or court and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

[*See main edition for text of 4th to 7th unnumbered pars.*]

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 208, 92 Stat. 2660.)

AMENDMENTS

1978—Pub. L. 95-598 added provisions relating to bankruptcy judges.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 332. Judicial councils

[*See main edition for text of (a) to (c)*]

(d) Each judicial council shall make all necessary orders for the effective and expeditious administration of the business of the courts within its circuit. The district judges and bankruptcy judges shall promptly carry into effect all orders of the judicial council.

[*See main edition for text of (e) and (f)*]

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 209, 92 Stat. 2661.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95-598 added reference to bankruptcy judges.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 333. Judicial conferences of circuits

The chief judge of each circuit shall summon annually the circuit, district, and bankruptcy judges of the circuit, in active service, to a con-

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[1] So in original. Probably should be followed by a comma.

ference at a time and place that he designates, for the purpose of considering the business of the courts and advising means of improving the administration of justice within such circuit. He shall preside at such conference, which shall be known as the Judicial Conference of the circuit. The judges of the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands shall also be summoned annually to the conferences of their respective circuits.

[*See main edition for text of 2d and 3d unnumbered pars.*]

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 210, 92 Stat. 2661.)

AMENDMENTS

1978—Pub. L. 95-598 added reference to bankruptcy judges.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

CHAPTER 17—RESIGNATION AND RETIREMENT OF JUSTICES AND JUDGES

§ 376. Annuities for survivors of certain judicial officials of the United States

(a) For the purposes of this section—

[*See main edition for text of (1)*]

(2) "retirement salary" means:

(A) in the case of a Justice or judge of the United States, as defined by section 451 of this title, salary paid (i) after retirement from regular active service under subsection (b) of section 371 or subsection (a) of section 372 of this title, or (ii) after retirement from office by resignation on salary under subsection (a) of section 371 of this title, or (iii) in the case of a bankruptcy judge, after retirement under section 337 of this title;

[*See main edition for text of (B) to (E), (3) to (5); (b) to (r)*]

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 211, 92 Stat. 2661.)

REFERENCES IN TEXT

Section 337 of this title, referred to in subsec. (a)(2)(A)(iii), has not been enacted as a section of this title.

AMENDMENTS

1978—Subsec. (a)(2)(A). Pub. L. 95-598 added cl. (iii) relating to bankruptcy judges.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

CROSS REFERENCES

Enforcement of legal obligations to provide child support and make alimony payments, see section 659 of Title 42, The Public Health and Welfare.

CHAPTER 21—GENERAL PROVISIONS APPLICABLE TO COURTS AND JUDGES

Sec.
455. Disqualification of justice, judge, or magistrate.
460. Application to Canal Zone, Guam and Virgin Islands.

AMENDMENTS

1978—Pub. L. 95-598, title II, §§ 214(c), 217(b), Nov. 6, 1978, 92 Stat. 2661, struck out "Alaska," after "Application to" in item 460 and struck out reference to referees in bankruptcy in item 455.

§ 451. Definitions

As used in this title:

The term "court of the United States" includes the Supreme Court of the United States, courts of appeals, district courts constituted by chapter 5 of this title, including the Court of Claims, the Court of Customs and Patent Appeals, the Customs Court and any court created by Act of Congress the judges of which are entitled to hold office during good behavior, and bankruptcy courts, the judges of which are entitled to hold office for a term of 14 years.

The terms "district court" and "district court of the United States" mean the courts constituted by chapter 5 of this title.

The term "judge of the United States" includes judges of the courts of appeals, district courts, Court of Claims, Court of Customs and Patent Appeals, Customs Court and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior, and judge of the bankruptcy courts, the judges of which are entitled to hold office for a term of 14 years.

[*See main edition for text of 5th to 7th unnumbered pars.*]

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 213, 92 Stat. 2661.)

AMENDMENTS

1978—Pub. L. 95-598 expanded the definitions of "court of the United States" and "judge of the United States" by adding references to bankruptcy courts, the judges of which are entitled to hold office for a term of 14 years.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 376, 1821 of this title; title 2 section 130b; title 5 sections 5537, 8331; title 12 sections 1464, 1730; title 18 sections 4107, 4108.

§ 455. Disqualification of justice, judge, or magistrate

(a) Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

[*See main edition for text of (b) to (d)*]

(e) No justice, judge, or magistrate shall accept from the parties to the proceeding a

waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 214(a), (b), 92 Stat. 2661.)

AMENDMENTS

1978—Pub. L. 95-598 struck out references to referees in bankruptcy in the section catchline and in subsecs. (a) and (e).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 456. Traveling expenses of justices and judges

[See main edition for text of first par.]

The official station of the Chief Justice of the United States, the Justices of the Supreme Court and the judges of the Court of Claims, the Court of Customs and Patent Appeals, the United States Court of Appeals for the District of Columbia, the United States District Court for the District of Columbia, and the United States Bankruptcy Court for the District of Columbia, shall be the District of Columbia.

The official station of the judges of the Customs Court shall be New York City.

The official station of each circuit, district[1] and bankruptcy judge, including each district judge in the Territories and possessions, shall be that place where a district court is regularly held and at or near which the judge performs a substantial portion of his judicial work, which is nearest the place where he maintains an actual abode in which he customarily lives.

Each circuit judge, each district judge;[2] and each bankruptcy judge whose official station is not fixed expressly in the second paragraph of this section shall upon his appointment and from time to time thereafter as his official station may change, notify the Director of the Administrative Office of the United States Courts in writing of his actual abode and his official station.

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 215, 92 Stat. 2661.)

AMENDMENTS

1978—Pub. L. 95-598 added references to the United States Bankruptcy Court for the District of Columbia and to bankruptcy judges.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 457. Records; obsolete papers

The records of bankruptcy courts, of district courts and of courts of appeals shall be kept at one or more of the places where court is held. Such places shall be designated by the respective courts except when otherwise directed by the judicial council of the circuit.

[See main edition for text of 2d par.]

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 216, 92 Stat. 2661.)

AMENDMENTS

1978—Pub. L. 95-598 added reference to records of bankruptcy courts.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 460. Application to Canal Zone, Guam and Virgin Islands

Sections 452-459 of this chapter shall also apply to the United States District Court for the District of the Canal Zone, the District Court of Guam and the District Court of the Virgin Islands and the judges thereof.

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 217(a), 92 Stat. 2661.)

AMENDMENTS

1978—Pub. L. 95-598 struck out "Alaska," after "Application to" in the section catchline.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Nov. 6, 1978, see section 402(d) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 461. Adjustments in certain salaries

1977 COMPARABILITY ADJUSTMENT NOT EFFECTIVE FOR JUSTICES, JUDGES, COMMISSIONERS, AND REFEREES

Pub. L. 95-66, § 1(3), July 11, 1977, 91 Stat. 270, set out as a note under section 5318 of Title 5, Government Organization and Employees, provided that the first adjustment which, but for the enactment of Pub. L. 95-66, would have been made in the salary and rate of pay of justices, judges, commissioners, and referees under this section after July 11, 1977, would not take effect.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5, 44, 135, 154, 173, 213, 252, 634, 792 of this title; title 11 section 68.

PART II—DEPARTMENT OF JUSTICE

Chap.		Sec.
39.	United States Trustees	581
39.	Special Prosecutor	591

AMENDMENTS

1978—Pub. L. 95-598, title II, § 224(b), Nov. 6, 1978, 92 Stat. 2664, added chapter 39, "United States Trustees", effective Oct. 1, 1979.

Pub. L. 95-521, title VI, § 601(b), Oct. 26, 1978, 92 Stat. 1873, added chapter 39 "Special Prosecutor".

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[1] So in original. Probably should be followed by a comma.

[2] So in original. The semicolon probably should be a comma.

CHAPTER 31—THE ATTORNEY GENERAL

Sec.
504a. Associate Attorney General.
526. Authority of the Attorney General to investigate United States attorneys, marshals, and trustees, clerks of court, and others.[1]
528. Disqualification of officers and employees of the Department of Justice.
529. Annual report of Attorney General.

AMENDMENTS

1978—Pub. L. 95-598, title II, § 219(c), Nov. 6, 1978, 92 Stat. 2662, added reference to trustees in item 526.

Pub. L. 95-521, title VI, § 603(b), Oct. 26, 1978, 92 Stat. 1875, added items 528 and 529.

1977—Pub. L. 95-139, § 1(b), Oct. 19, 1977, 91 Stat. 1171, added item 504a.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 7192.

§ 504a. Associate Attorney General

The President may appoint, by and with the advice and consent of the Senate, an Associate Attorney General.

(Added Pub. L. 95-139, § 1(a), Oct. 19, 1977, 91 Stat. 1171.)

§ 506. Assistant Attorneys General

The President shall appoint, by and with the advice and consent of the Senate, ten Assistant Attorneys General, who shall assist the Attorney General in the performance of his duties.

(As amended Pub. L. 95-598, title II, § 218, Nov. 6, 1978, 92 Stat. 2662.)

AMENDMENTS

1978—Pub. L. 95-598 substituted "ten" for "nine".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Nov. 6, 1978, see section 402(d) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 507. Assistant Attorney General for Administration

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 1132c-2; title 26 section 7422; title 42 section 3211.

§ 508. Vacancies

[*See main edition for text of* (*a*)]

(b) When by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Associate Attorney General shall act as Attorney General. The Attorney General may designate the Solicitor General and the Assistant Attorneys General, in further order of succession, to act as Attorney General.

(As amended Pub. L. 95-139, § 2, Oct. 19, 1977, 91 Stat. 1171.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-139 substituted "the Associate Attorney General shall act as Attorney General. The Attorney General may designate the Solicitor General and the Assistant Attorneys General, in further order of succession, to act as Attorney General" for "the Assistant Attorneys General and the Solicitor General, in such order of succession as the Attorney General may from time to time prescribe, shall act as Attorney General".

§ 509. Functions of the Attorney General

All functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General except the functions—

(1) vested by subchapter II of chapter 5 of title 5 in administrative law judges employed by the Department of Justice;

[*See main edition for text of* (*2*) *to* (*4*)]

(As amended Pub. L. 95-251, § 2(a)(6), Mar. 27, 1978, 92 Stat. 183.)

AMENDMENTS

1978—Pub. L. 95-251 substituted "administrative law judges" for "hearing examiners" in cl. (1).

§ 518. Conduct and argument of cases

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 sections 1205, 7105; title 7 section 2050a; title 29 sections 663, 792, 1132; title 30 section 822; title 42 section 7171.

§ 519. Supervision of litigation

REPORT TO CONGRESS REGARDING PROVISIONS OF LAW CONSIDERED UNCONSTITUTIONAL BY THE DEPARTMENT OF JUSTICE; DECLARATION OF SUCH POSITION

Pub. L. 95-624, § 13, Nov. 9, 1978, 92 Stat. 3464, provided that:

"(a) The Attorney General shall, during the fiscal year for which appropriations are authorized by this Act [fiscal year ending Sept. 30, 1979] transmit a report to each House of the Congress in any case in which the Attorney General—

"(1) establishes a policy to refrain from the enforcement of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional; or

"(2) determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional.

"(b) Any report required in subsection (a) shall be transmitted not later than thirty days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

"(1) specify the provision of law involved;

"(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional; and

"(3) in the case of a determination specified in subsection (a)(2), indicate the nature of the judicial, administrative, or other proceeding involved.

"(c) If, during the fiscal year for which appropriations are authorized by this Act [fiscal year ending Sept. 30, 1979], the Attorney General determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional, then the representative of the Department of Justice participating in such proceeding shall make a declaration in such proceeding that such position of the Department of Justice regarding the constitutionality of the provision of law involved constitutes the position of the executive branch of the United States with respect to such matter."

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[1] So in original. Does not conform to section catchline.

Study and Report to Congress on Extent to Which Violations of Federal Criminal Laws Are Not Prosecuted

Pub. L. 95-624, § 17, Nov. 9, 1978, 92 Stat. 3465, provided that: "The Attorney General shall undertake a study of the extent to which complaints of violations of Federal criminal laws are not prosecuted and shall make recommendations for improving the percentage of such complaints which are prosecuted by the Department. The study shall also analyze the cases that have not been prosecuted and make recommendations to assure that the decisions not to prosecute are in accordance with national policy. The study and recommendations shall be provided to the Committees on the Judiciary of the Senate and House of Representatives not later than October 1, 1979."

Section Referred to in Other Sections

This section is referred to in title 7 section 943; title 19 section 1920; title 42 section 8412.

§ 526. Authority of Attorney General to investigate United States attorneys, marshals, and trustee, clerks of court, and others

(a) The Attorney General may investigate the official acts, records, and accounts of—

(1) the United States attorneys, marshals, and trustees; and

(2) at the request and on behalf of the Director of the Administrative Office of the United States Courts, the clerks of the United States courts and of the district courts of the Canal Zone and the Virgin Islands, probation officers, trustees in cases under title 11, United States magistrates, and court reporters;

for which purpose all the official papers, records, dockets, and accounts of these officers, without exception, may be examined by agents of the Attorney General at any time.

(b) Appropriations for the examination of judicial officers are available for carrying out this section.

(As amended Pub. L. 95-598, title II, §§ 219(a), (b), 220, Nov. 6, 1978, 92 Stat. 2662.)

Amendment of Subsec. (a)(1)

Pub. L. 95-598, title IV, § 408(c), Nov. 6, 1978, 92 Stat. 2687, provided that, effective Apr. 1, 1984, any references to United States Trustees in this title are to be deleted. See section 408(c) of Pub. L. 95-598 set out in a note preceding section 581 of this title.

Amendment

1978—Pub. L. 95-598, § 219(b), substituted "marshals, and trustee" for "and marshals" in section catchline.

Subsec. (a)(1). Pub. L. 95-518, § 219(a), substituted "marshals, and trustees" for "and marshals".

Subsec. (a)(2). Pub. L. 95-598, § 220, substituted "officers, trustees in cases under title 11" for "officers, referees, trustees and receivers in bankruptcy" and "magistrates" for "commissioners".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 528. Disqualification of officers and employees of the Department of Justice

The Attorney General shall promulgate rules and regulations which require the disqualification of any officer or employee of the Department of Justice, including a United States attorney or a member of such attorney's staff, from participation in a particular investigation or prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof. Such rules and regulations may provide that a willful violation of any provision thereof shall result in removal from office.

(Added Pub. L. 95-521, title VI, § 603(a), Oct. 26, 1978, 92 Stat. 1874.)

Effective Date

Section effective Oct. 26, 1978, see section 604 of Pub. L. 95-521, set out as an Effective Date note under section 591 of this title.

§ 529. Annual report of Attorney General

Beginning on June 1, 1979, and at the beginning of each regular session of Congress thereafter, the Attorney General shall report to Congress on the activities and operations of the Public Integrity Section or any other unit of the Department of Justice designated to supervise the investigation and prosecution of—

(1) any violation of Federal criminal law by any individual who holds or who at the time of such violation held a position, whether or not elective, as a Federal Government officer, employee, or special employee, if such violation relates directly or indirectly to such individual's Federal Government position, employment, or compensation;

(2) any violation of any Federal criminal law relating to lobbying, conflict of interest, campaigns, and election to public office committed by any person, except insofar as such violation relates to a matter involving discrimination or intimidation on grounds of race, color, religion, or national origin;

(3) any violation of Federal criminal law by any individual who holds or who at the time of such violation held a position, whether or not elective, as a State or local government officer or employee, if such violation relates directly or indirectly to such individual's State or local government position, employment, or compensation; and

(4) such other matters as the Attorney General may deem appropriate.

Such report shall include the number, type, and disposition of all investigations and prosecutions supervised by such Section or such unit, except that such report shall not disclose information which would interfere with any pending investigation or prosecution or which would improperly infringe upon the privacy rights of any individuals.

(Added Pub. L. 95-521, title VI, § 603(a), Oct. 26, 1978, 92 Stat. 1874.)

Effective Date

Section effective Oct. 26, 1978, see section 604 of Pub. L. 95-521, set out as an Effective Date note under section 591 of this title.

CHAPTER 35—UNITED STATES ATTORNEYS

Chapter Referred to in Other Sections

This chapter is referred to in title 48 sections 1424b, 1617, 1694.

§ 545. Residence

(a) Each United States attorney and assistant United States attorney shall reside in the district for which he is appointed, except that these officers of the District of Columbia and the Southern District of New York may reside within 20 miles thereof. The provisions of this subsection shall not apply to any United States attorney or assistant United States attorney appointed for the Northern Mariana Islands who at the same time is serving in the same capacity in another district.

[*See main edition for text of* (*b*)]

(As amended Pub. L. 95-530, § 1, Oct. 27, 1978, 92 Stat. 2028.)

Amendments

1978—Subsec. (a). Pub. L. 95-530 added provision that this subsection not apply to any United States attorney or assistant United States attorney appointed for the Northern Mariana Islands who at the same time is serving in the same capacity in another district.

CHAPTER 37—UNITED STATES MARSHALS

Chapter Referred to in Other Sections

This chapter is referred to in title 48 sections 1424b, 1614, 1694.

§ 561. United States marshals

[*See main edition for text of* (*a*) *and* (*b*)]

(c) The Attorney General shall designate places within the district for the official station and offices of each marshal. Each marshal shall reside within the district for which he was appointed, except that the marshal for the District of Columbia and the Southern District of New York may reside within 20 miles thereof. The preceding sentence shall not apply to any United States marshal appointed for the Northern Mariana Islands who at the same time is serving in the same capacity in another district.

(As amended Pub. L. 95-530, § 2, Oct. 27, 1978, 92 Stat. 2028.)

Amendments

1978—Subsec. (c). Pub. L. 95-530 added provision that the requirement that each marshal reside within the district for which he was appointed not apply to any United States marshal appointed for the Northern Mariana Islands who at the same time is serving in the same capacity in another district.

§ 569. Powers and duties generally; supervision by Attorney General

(a) The United States marshal of each district is the marshal of the bankruptcy, of the district court, and of the court of appeals when sitting in his district, and of the Customs Court holding sessions in his district elsewhere than in the Southern and Eastern Districts of New York, and may, in the discretion of the respective courts, be required to attend any session of court.

[*See main edition for text of* (*b*) *and* (*c*)]

(As amended Pub. L. 95-598, title II, § 221, Nov. 6, 1978, 92 Stat. 2662.)

Amendments

1978—Subsec. (a). Pub. L. 95-598 added reference to marshals of the bankruptcy court.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 571. Disbursement of salaries and moneys

(a) The United States marshals, under regulations prescribed by the Attorney General, shall pay the salaries, office expenses and travel and per diem allowances of United States attorneys, their assistants, clerks and messengers, of the marshals, their deputies and clerical assistants, and of the United States trustees, their assistants, staff and other employees.

(b) The United States marshals, under regulations prescribed by the Director of the Administrative Office of the United States Courts, shall pay the salaries, office expenses, and travel and per diem allowances of circuit, district, and bankruptcy judges, clerks of court and their deputies, court reporters, and other personnel of courts within their districts.

[*See main edition for text of* (*c*)]

(As amended Pub. L. 95-598, title II, §§ 222, 223 Nov. 6, 1978, 92 Stat. 2662.)

Amendment of Subsec. (a)

Pub. L. 95-598, title IV, § 408(c), Nov. 6, 1978, 92 Stat. 2687, provided that, effective Apr. 1, 1984, any references to United States Trustees in this title are to be deleted. See section 408(c) of Pub. L. 95-598 set out in a note preceding section 581 of this title.

Amendments

1978—Subsec. (a). Pub. L. 95-598, § 222, added reference to United States trustees, their assistants, staff, and other employees.

Subsec. (b). Pub. L. 95-598, § 223, substituted ", district, and bankruptcy" for "and district".

Effective Date of 1978 Amendment

Amendment of subsec. (a) by section 222 of Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

Amendment of subsec. (b) by section 223 of Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11.

CHAPTER 39—UNITED STATES TRUSTEES[1]

Sec.
581. United States trustees.
582. Assistant United States trustees.
583. Oath of office.
584. Official stations.
585. Vacancies.
586. Duties; supervision by Attorney General.
587. Salaries.
588. Expenses.
589. Staff and other employees.

UNITED STATES TRUSTEE PILOT; REPEAL OF BANKRUPTCY PROVISIONS RELATING TO UNITED STATES TRUSTEES

Pub. L. 95-598, title IV, § 408, Nov. 6, 1978, 92 Stat. 2686, provided that:

"(a) The Attorney General shall conduct such studies and surveys as necessary to evaluate the needs, feasibility, and effectiveness of the United States trustee system, and shall report the result of such studies and surveys to the Congress, the President, and the Judicial Conference of the United States, beginning on or before January 3, 1980, and annually thereafter during the transition period.

"(b) Not later than January 3, 1984, the Attorney General shall report to the Congress, to the President, and the Judicial Conference of the United States, as to the feasibility, projected annual cost and effectiveness of the United States trustee system, as determined on the basis of the studies and surveys respecting the operation of the United States trustee system in the districts, together with recommendations as to the desirability and method of proceeding with implementation of the United States trustee system in all judicial districts of the United States.

"(c) Chapter 15 of title 11 of the United States Code and chapter 39 of title 28 of the United States Code are repealed, and all references to the United States trustee contained in title 28 of the United States Code are deleted, as of April 1, 1984. The service of any United States trustee, of any assistant United States trustee, and of any employee employed or appointed under the authority of such chapter 39 is terminated on such date."

§ 581. United States trustees

(a) The Attorney General shall appoint one United States trustee for each of the following districts or groups of districts:

(1) District of Maine, District of New Hampshire, District of Massachusetts, and District of Rhode Island.

(2) Southern District of New York.

(3) District of Delaware and District of New Jersey.

(4) Eastern District of Virginia and District of District of Columbia.

(5) Northern District of Alabama.

(6) Northern District of Texas.

(7) Northern District of Illinois.

(8) District of Minnesota, District of North Dakota, District of South Dakota.

(9) Central District of California.

(10) District of Colorado and District of Kansas.

(b) Each United States trustee shall be appointed for a term of seven years. On the expiration of his term, a United States trustee shall continue to perform the duties of his Office until his successor is appointed and qualifies.

(c) Each United States trustee is subject to removal for cause by the Attorney General.

(Added Pub. L. 95-598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2662.)

REPEAL OF SECTION

Pub. L. 95-598, title IV, § 408(c), Nov. 6, 1978, 92 Stat. 2687, provided that, effective Apr. 1, 1984, this section is repealed and any references to United States Trustees in this title are to be deleted. See section 408(c) of Pub. L. 95-598 set out in a note preceding section 581 of this title.

EFFECTIVE DATE

Chapter effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 585 of this title.

§ 582. Assistant United States trustees

(a) The Attorney General may appoint one or more assistant United States trustees in any district when the public interest so requires.

(b) Each assistant United States trustee is subject to removal for cause by the Attorney General.

(Added Pub. L. 95-598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2663.)

REPEAL OF SECTION

Pub. L. 95-598, title IV, § 408(c), Nov. 6, 1978, 92 Stat. 2687, provided that, effective Apr. 1, 1984, this section is repealed and any references to United States Trustees in this title are to be deleted. See section 408(c) of Pub. L. 95-598 set out in a note preceding section 581 of this title.

§ 583. Oath of office

Each United States trustee and assistant United States trustee, before taking office, shall take an oath to execute faithfully his duties.

(Added Pub. L. 95-598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2663.)

REPEAL OF SECTION

Pub. L. 95-598, title IV, § 408(c), Nov. 6, 1978, 92 Stat. 2687, provided that, effective Apr. 1, 1984, this section is repealed and any references to United States Trustees in this title are to be deleted. See section 408(c) of Pub. L. 95-598 set out in a note preceding section 581 of this title.

§ 584. Official stations

The Attorney General may determine the official stations of the United States trustees and assistant United States trustees within the districts for which they were appointed.

(Added Pub. L. 95-598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2663.)

REPEAL OF SECTION

Pub. L. 95-598, title IV, § 408(c), Nov. 6, 1978, 92 Stat. 2687, provided that, effective Apr. 1, 1984, this section is repealed and any references to United States Trustees in this title are to be deleted. See section 408(c) of

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[1] Another chapter 39, comprising sections 591 to 598 of this title, is set out following section 589.

Pub. L. 95-598 set out in a note preceding section 581 of this title.

§ 585. Vacancies

The Attorney General may appoint an acting United States trustee for a district in which the office of United States trustee is vacant, or may designate a United States trustee for another judicial district to serve as trustee for the district in which such vacancy exists. The individual so appointed or designated may serve until the earlier of 90 days after such appointment or designation, as the case may be, or the date on which the vacancy is filled by appointment under section 581 of this title.

(Added Pub. L. 95-598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2663.)

REPEAL OF SECTION

Pub. L. 95-598, title IV, § 408(c), Nov. 6, 1978, 92 Stat. 2687, provided that, effective Apr. 1, 1984, this section is repealed and any references to United States Trustees in this title are to be deleted. See section 408(c) of Pub. L. 95-598 set out in a note preceding section 581 of this title.

§ 586. Duties; supervision by Attorney General

(a) Each United States trustee, within his district, shall—

(1) establish, maintain, and supervise a panel of private trustees that are eligible and available to serve as trustees in cases under chapter 7 of title 11;

(2) serve as and perform the duties of a trustee in a case under title 11 when required under title 11 to serve as trustee in such a case;

(3) supervise the administration of cases and trustees in cases under chapter 7, 11, or 13 of title 11;

(4) deposit or invest under section 345 of title 11 money received as trustee in cases under title 11;

(5) perform the duties prescribed for the United States trustee under title 11; and

(6) make such reports as the Attorney General directs.

(b) If the number of cases under chapter 13 of title 11 commenced in a particular judicial district so warrant, the United States trustee for such district may, subject to the approval of the Attorney General, appoint one or more individuals to serve as standing trustee, or designate one or more assistant United States trustee, in cases under such chapter. The United States trustee for such district shall supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee.

(c) Each United States trustee shall be under the general supervision of the Attorney General, who shall provide general coordination and assistance to the United States trustees.

(d) The Attorney General shall prescribe by rule qualifications for membership on the panels established by United States trustees under subsection (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11. The Attorney General may not require that an individual be an attorney in order to qualify for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11.

(e)(1) The Attorney General, after consultation with a United States trustee that has appointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11, shall fix—

(A) a maximum annual compensation for such individual, not to exceed the lowest annual rate of basic pay in effect for grade GS-16 of the General Schedule prescribed under section 5332 of title 5; and

(B) a percentage fee, not to exceed ten percent, based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

(2) Such individual shall collect such percentage fee from all payments under plans in the cases under chapter 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay to the United States trustee, and the United States trustee shall pay to the Treasury—

(A) any amount by which the actual compensation of such individual exceeds five percent upon all payments under plans in cases under chapter 13 of title 11 for which such individual serves as standing trustee; and

(B) any amount by which the percentage for all such cases exceeds—

(i) such individual actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases.

(Added Pub. L. 95-598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2663.)

REPEAL OF SECTION

Pub. L. 95-598, title IV, § 408(c), Nov. 6, 1978, 92 Stat. 2687, provided that, effective Apr. 1, 1984, this section is repealed and any references to United States Trustees in this title are to be deleted. See section 408(c) of Pub. L. 95-598 set out in a note preceding section 581 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 11 App. sections 15326, 15701, 15703, 151302, 151326.

§ 587. Salaries

The Attorney General shall fix the annual salaries of United States trustees and assistant United States trustees at rates of compensation not to exceed the lowest annual rate of basic pay in effect for grade GS-16 of the General Schedule prescribed under section 5332 of title 5.

(Added Pub. L. 95-598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2664.)

REPEAL OF SECTION

Pub. L. 95-598, title IV, § 408(c), Nov. 6, 1978, 92 Stat. 2687, provided that, effective

Apr. 1, 1984, this section is repealed and any references to United States Trustees in this title are to be deleted. See section 408(c) of Pub. L. 95-598 set out in a note preceding section 581 of this title.

§ 588. Expenses

Necessary office expenses of the United States trustee shall be allowed when authorized by the Attorney General.

(Added Pub. L. 95-598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2664.)

REPEAL OF SECTION

Pub. L. 95-598, title IV, § 408(c), Nov. 6, 1978, 92 Stat. 2687, provided that, effective Apr. 1, 1984, this section is repealed and any references to United States Trustees in this title are to be deleted. See section 408(c) of Pub. L. 95-598 set out in a note preceding section 581 of this title.

§ 589. Staff and other employees

The United States trustee may employ staff and other employees on approval of the Attorney General.

(Added Pub. L. 95-598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2664.)

REPEAL OF SECTION

Pub. L. 95-598, title IV, § 408(c), Nov. 6, 1978, 92 Stat. 2687, provided that, effective Apr. 1, 1984, this section is repealed and any references to United States Trustees in this title are to be deleted. See section 408(c) of Pub. L. 95-598 set out in a note preceding section 581 of this title.

CHAPTER 39—SPECIAL PROSECUTOR[1]

Sec.
591. Applicability of provisions of this chapter.
592. Application for appointment of a special prosecutor.
593. Duties of the division of the court.
594. Authority and duties of a special prosecutor.
595. Reporting and congressional oversight.
596. Removal of a special prosecutor; termination of office.
597. Relationship with Department of Justice.
598. Termination of effect of chapter.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 49 of this title.

§ 591. Applicability of provisions of this chapter

(a) The Attorney General shall conduct an investigation pursuant to the provisions of this chapter whenever the Attorney General receives specific information that any of the persons described in subsection (b) of this section has committed a violation of any Federal criminal law other than a violation constituting a petty offense.

(b) The persons referred to in subsection (a) of this section are—

(1) the President and Vice President;

(2) any individual serving in a position listed in section 5312 of title 5;

(3) any individual working in the Executive Office of the President and compensated at a rate not less than the annual rate of basic pay provided for level IV of the Executive Schedule under section 5315 of title 5;

(4) any individual working in the Department of Justice and compensated at a rate not less than the annual rate of basic pay provided for level III of the Executive Schedule under section 5314 of title 5, any Assistant Attorney General, the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

(5) any individual who held any office or position described in any of paragraphs (1) through (4) of this subsection during the incumbency of the President or during the period the last preceding President held office, if such preceding President was of the same political party as the incumbent President; and

(6) any officer of the principal national campaign committee seeking the election or reelection of the President.

(Added Pub. L. 95-521, title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1867.)

EFFECTIVE DATE

Section 604 of Pub. L. 95-521 provided that: "Except as provided in this section, the amendments made by this title [enacting this chapter and sections 49, 528, and 529 of this title] shall take effect on the date of the enactment of this Act [Oct. 26, 1978]. The provisions of chapter 39 of title 28 of the United States Code, as added by section 601 of this Act, shall not apply to specific information received by the Attorney General pursuant to section 591 of such title 28, if the Attorney General determines that—

"(1) such specific information is directly related to a prosecution pending at the time such specific information is received by the Attorney General;

"(2) such specific information is related to a matter which has been presented to a grand jury and is received by the Attorney General within one hundred and eighty days of the date of the enactment of this Act; or

"(3) such specific information is related to an investigation that is pending at the time such specific information is received by the Attorney General, and such specific information is received by the Attorney General within ninety days of the date of the enactment of this Act."

CONTINGENCY FUND FOR SPECIAL PROSECUTORS

Section 601(c) of Pub. L. 95-521 provided that: "There are authorized to be appropriated for each fiscal year such sums as may be necessary, to be held by the Department of Justice as a contingent fund for the use of any special prosecutors appointed under chapter 39 (relating to special prosecutor) of title 28 of the United States Code in the carrying out of functions under such chapter."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 592 of this title.

§ 592. Application for appointment of a special prosecutor

(a) The Attorney General, upon receiving specific information that any of the persons described in section 591(b) of this title has engaged in conduct described in section 591(a) of this title, shall conduct, for a period not to exceed ninety days, such preliminary investigation of the matter as the Attorney General deems appropriate.

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[1] Another chapter 39, comprising sections 581 to 589 of this title, is set out above.

(b)(1) If the Attorney General, upon completion of the preliminary investigation, finds that the matter is so unsubstantiated that no further investigation or prosecution is warranted, the Attorney General shall so notify the division of the court specified in section 593(a) of this title, and the division of the court shall have no power to appoint a special prosecutor.

(2) Such notification shall be by memorandum containing a summary of the information received and a summary of the results of any preliminary investigation.

(3) Such memorandum shall not be revealed to any individual outside the division of the court or the Department of Justice without leave of the division of the court.

(c)(1) If the Attorney General, upon completion of the preliminary investigation, finds that the matter warrants further investigation or prosecution, or if ninety days elapse from the receipt of the information without a determination by the Attorney General that the matter is so unsubstantiated as not to warrant further investigation or prosecution, then the Attorney General shall apply to the division of the court for the appointment of a special prosecutor.

(2) If—

(A) after the filing of a memorandum under subsection (b) of this section, the Attorney General receives additional specific information about the matter to which such memorandum related, and

(B) the Attorney General determines, after such additional investigation as the Attorney General deems appropriate, that such information warrants further investigation or prosecution,

then the Attorney General shall, not later than ninety days after receiving such additional information, apply to the division of the court for the appointment of a special prosecutor.

(d)(1) Any application under this chapter shall contain sufficient information to assist the division of the court to select a special prosecutor and to define that special prosecutor's prosecutorial jurisdiction.

(2) No application or any other documents, materials, or memorandums supplied to the division of the court under this chapter shall be revealed to any individual outside the division of the court or the Department of Justice without leave of the division of the court.

(e) The Attorney General may ask a special prosecutor to accept referral of a matter that relates to a matter within that special prosecutor's prosecutorial jurisdiction.

(f) The Attorney General's determination under subsection (c) of this section to apply to the division of the court for the appointment of a special prosecutor shall not be reviewable in any court.

(Added Pub. L. 95-521, title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1868.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 593 of this title.

§ 593. Duties of the division of the court

(a) The division of the court to which this chapter refers is the division established under section 49 of this title.

(b) Upon receipt of an application under section 592(c) of this title, the division of the court shall appoint an appropriate special prosecutor and shall define that special prosecutor's prosecutorial jurisdiction. A special prosecutor's identity and prosecutorial jurisdiction shall be made public upon request of the Attorney General or upon a determination of the division of the court that disclosure of the identity and prosecutorial jurisdiction of such special prosecutor would be in the best interests of justice. In any event the identity and prosecutorial jurisdiction of such prosecutor shall be made public when any indictment is returned or any criminal information is filed.

(c) The division of the court, upon request of the Attorney General which may be incorporated in an application under this chapter, may expand the prosecutorial jurisdiction of an existing special prosecutor, and such expansion may be in lieu of the appointment of an additional special prosecutor.

(d) The division of the court may not appoint as a special prosecutor any person who holds or recently held any office of profit or trust under the United States.

(e) If a vacancy in office arises by reason of the resignation or death of a special prosecutor, the division of the court may appoint a special prosecutor to complete the work of the special prosecutor whose resignation or death caused the vacancy. If a vacancy in office arises by reason of the removal of a special prosecutor, the division of the court may appoint an acting special prosecutor to serve until any judicial review of such removal is completed. Upon the completion of such judicial review, the division of the court shall take appropriate action.

(Added Pub. L. 95-521, title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1869.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 592 of this title.

§ 594. Authority and duties of a special prosecutor

(a) Notwithstanding any other provision of law, a special prosecutor appointed under this chapter shall have, with respect to all matters in such special prosecutor's prosecutorial jurisdiction established under this chapter, full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice, except that the Attorney General shall exercise direction or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18. Such investigative and prosecutorial functions and powers shall include—

(1) conducting proceedings before grand juries and other investigations;

(2) participating in court proceedings and engaging in any litigation, including civil and criminal matters, that such special prosecutor deems necessary;

(3) appealing any decision of a court in any case or proceeding in which such special prosecutor participates in an official capacity;

(4) reviewing all documentary evidence available from any source;

(5) determining whether to contest the assertion of any testimonial privilege;

(6) receiving appropriate national security clearances and, if necessary, contesting in court (including, where appropriate, participating in in camera proceedings) any claim of privilege or attempt to withhold evidence on grounds of national security;

(7) making applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpenas, or other court orders, and, for purposes of sections 6003, 6004, and 6005 of title 18, exercising the authority vested in a United States attorney or the Attorney General;

(8) inspecting, obtaining, or using the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1954, and the regulations issued thereunder, exercising the powers vested in a United States attorney or the Attorney General; and

(9) initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing informations, and handling all aspects of any case in the name of the United States.

(b) A special prosecutor appointed under this chapter shall receive compensation at a per diem rate equal to the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5.

(c) For the purposes of carrying out the duties of the office of special prosecutor, a special prosecutor shall have power to appoint, fix the compensation, and assign the duties, of such employees as such special prosecutor deems necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceeding the maximum rate provided for GS-18 of the General Schedule under section 5332 of title 5.

(d) A special prosecutor may request assistance from the Department of Justice, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within such special prosecutor's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform such special prosecutor's duties.

(e) A special prosecutor may ask the Attorney General or the division of the court to refer matters related to the special prosecutor's prosecutorial jurisdiction. A special prosecutor may accept referral of a matter by the Attorney General, if the matter relates to a matter within such special prosecutor's prosecutorial jurisdiction as established by the division of the court. If such a referral is accepted, the special prosecutor shall notify the division of the court.

(f) A special prosecutor shall, to the extent that such special prosecutor deems appropriate, comply with the written policies of the Department of Justice respecting enforcement of the criminal laws.

(Added Pub. L. 95-521, title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1869.)

REFERENCES IN TEXT

Section 6103 of the Internal Revenue Code of 1954, referred to in subsec. (a)(8), is classified to section 6103 of Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 596, 597 of this title.

§ 595. Reporting and congressional oversight

(a) A special prosecutor appointed under this chapter may make public from time to time, and shall send to the Congress statements or reports on the activities of such special prosecutor. These statements and reports shall contain such information as such special prosecutor deems appropriate.

(b)(1) In addition to any reports made under subsection (a) of this section, and before the termination of a special prosecutor's office under section 596(b) of this title, such special prosecutor shall submit to the division of the court a report under this subsection.

(2) A report under this subsection shall set forth fully and completely a description of the work of the special prosecutor, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such special prosecutor which was not prosecuted.

(3) The division of the court may release to the Congress, the public, or to any appropriate person, such portions of a report made under this subsection as the division deems appropriate. The division of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and to prevent undue interference with any pending prosecution. The division of the court may make any portion of a report under this section available to any individual named in such report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may in the discretion of such division be included as an appendix to such report.

(c) A special prosecutor shall advise the House of Representatives of any substantial and credible information which such special prosecutor receives that may constitute grounds for an impeachment. Nothing in this chapter or section 49 of this title shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

(d) The appropriate committees of the Congress shall have oversight jurisdiction with respect to the official conduct of any special prosecutor appointed under this chapter, and such special prosecutor shall have the duty to cooperate with the exercise of such oversight jurisdiction.

(e) A majority of majority party members or a majority of all nonmajority party members of the Committee on the Judiciary of either House of the Congress may request in writing that the Attorney General apply for the appointment of a special prosecutor. Not later than thirty days after the receipt of such a request, or not later than fifteen days after the completion of a preliminary investigation of the matter with respect to which the request is made, whichever is later, the Attorney General shall provide written notification of any action the Attorney General has taken in response to such request and, if no application has been made to the division of the court, why such application was not made. Such written notification shall be provided to the committee on which the persons making the request serve, and shall not be revealed to any third party, except that the committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of such notification as will not in the committee's judgment prejudice the rights of any individual.

(Added Pub. L. 95–521, title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1871.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 596 of this title.

§ 596. Removal of a special prosecutor; termination of office

(a)(1) A special prosecutor appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the personal action of the Attorney General and only for extraordinary impropriety, physical disability, mental incapacity, or any other condition that substantially impairs the performance of such special prosecutor's duties.

(2) If a special prosecutor is removed from office, the Attorney General shall promptly submit to the division of the court and the Committees on the Judiciary of the Senate and the House of Representatives a report specifying the facts found and the ultimate grounds for such removal. The committees shall make available to the public such report, except that each committee may, if necessary to protect the rights of any individual named in the report or to prevent undue interference with any pending prosecution, delete or postpone publishing any or all of the report. The division of the court may release any or all of such report in the same manner as a report released under section 595(b)(3) of this title and under the same limitations as apply to the release of a report under that section.

(3) A special prosecutor so removed may obtain judicial review of the removal in a civil action commenced before the division of the court and, if such removal was based on error of law or fact, may obtain reinstatement or other appropriate relief. The division of the court shall cause such an action to be in every way expedited.

(b)(1) An office of special prosecutor shall terminate when (A) the special prosecutor notifies the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such special prosecutor or accepted by such special prosecutor under section 594(e) of this title, and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions and (B) the special prosecutor files a report in full compliance with section 595(b) of this title.

(2) The division of the court, either on its own motion or upon suggestion of the Attorney General, may terminate an office of special prosecutor at any time, on the ground that the investigation of all matters within the prosecutorial jurisdiction of the special prosecutor or accepted by such special prosecutor under section 594(e) of this title, and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. At the time of termination, the special prosecutor shall file the report required by section 595(b) of this title.

(Added Pub. L. 95–521, title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1872.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 595 of this title.

§ 597. Relationship with Department of Justice

(a) Whenever a matter is in the prosecutorial jurisdiction of a special prosecutor or has been accepted by a special prosecutor under section 594(e) of this title, the Department of Justice, the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding such matter, except to the extent required by section 594(d) of this title, and except insofar as such special prosecutor agrees in writing that such investigation or proceedings may be continued by the Department of Justice.

(b) Nothing in this chapter shall prevent the Attorney General or the Solicitor General from making a presentation as amicus curiae to any court as to issues of law raised by any case or proceeding in which a special prosecutor participates in an official capacity or any appeal of such a case or proceeding.

(Added Pub. L. 95–521, title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1872.)

§ 598. Termination of effect of chapter

This chapter shall cease to have effect five years after the date of the enactment of this chapter, except that this chapter shall continue in effect with respect to then pending matters before a special prosecutor that in the judgment of such special prosecutor require such continuation until that special prosecutor determines such matters have been completed.

(Added Pub. L. 95–521, title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1873.)

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in text, is Oct. 26, 1978.

PART III—COURT OFFICERS AND EMPLOYEES

Chap.		Sec.
50.	Bankruptcy Courts	771

AMENDMENTS

1978—Pub. L. 95-598, title II, § 233(b), Nov. 6, 1978, 92 Stat. 2667, added the item relating to chapter 50.

CHAPTER 41—ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

§ 602. Employees

(a) The Director shall appoint and fix the compensation of necessary employees of the Administrative Office in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates.

(b) Notwithstanding any other law, the Director may appoint certified interpreters in accordance with section 604(a)(15)(B) of this title without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates, but the compensation of any person appointed under this subsection shall not exceed the appropriate equivalent of the highest rate of pay payable for the highest grade established in the General Schedule, section 5332 of title 5.

(c) The Director may obtain personal services as authorized by section 3109 of title 5, at rates not to exceed the appropriate equivalent of the highest rate of pay payable for the highest grade established in the General Schedule, section 5332 of title 5.

(d) All functions of other officers and employees of the Administrative Office and all functions of organizational units of the Administrative Office are vested in the Director. The Director may delegate any of the Director's functions, powers, duties, and authority (except the authority to promulgate rules and regulations) to such officers and employees of the judicial branch of Government as the Director may designate, and subject to such terms and conditions as the Director may consider appropriate; and may authorize the successive redelegation of such functions, powers, duties, and authority as the Director may deem desirable. All official acts performed by such officers and employees shall have the same force and effect as though performed by the Director in person.

(As amended Oct. 28, 1978, Pub. L. 95-539, § 5, 92 Stat. 2044.)

AMENDMENTS

1978—Pub. L. 95-539, among other changes, substituted provision authorizing the Director to appoint and fix the compensation of necessary employees in accordance with chapter 51 and subchapter III of chapter 53 of title 5 for provision authorizing the Director, subject to the provisions of the civil service laws, to appoint necessary employees for the Administrative Office and added provisions relating to appointing and fixing the compensation of certified interpreters, to obtaining personal services as authorized by section 3109 of title 5, and to transferring to the Director all of the functions of the officers and employees of the Administrative Office and all the functions of the organizational units of the Administrative Office with power in the Director to to delegate his authority.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 10 of Pub. L. 95-539 provided that:

"(a) Except as provided in subsection (b), this Act [enacting section 1827 and 1828 of this title, amending sections 602, 603, 604, and 1920 of this title, enacting provisions set out as notes under sections 1 and 602 of this title, and repealing a provision set out as a note under this section] shall take effect on the date of the enactment of this Act [Oct. 28, 1978].

"(b) Section 2 of this Act [enacting sections 1827 and 1828 of this title] shall take effect ninety days after the date of the enactment of this Act [Oct. 28, 1978]."

CONTRACT LIMITATIONS

Section 11 of Pub. L. 95-539 provided that: "Any contracts entered into under this Act or any of the amendments made by this Act [enacting sections 1827 and 1828 of this title, amending sections 602, 603, 604, and 1920 of this title, enacting provisions set out as notes under sections 1 and 602 of this title, and repealing a provision set out as a note under this section] shall be limited to such extent or in such amounts as are provided in advance in appropriation Acts."

EMPLOYMENT OF EXPERTS OR CONSULTANTS: RATES

Pub. L. 86-870, § 5(b), Sept. 23, 1959, 73 Stat. 652, which authorized the Director of the Administrative Office of the United States Courts to procure the temporary or intermittent services of experts or consultants was repealed by Pub. L. 95-539, § 8, Oct. 28, 1978, 92 Stat. 2044.

§ 603. Salaries

The salary of the Director shall be the same as the salary of a district judge. The salary of the Deputy Director shall be in the same amount as the annual rate of basic pay for positions at level V of the Executive Schedule under section 5316 of title 5.

(As amended Oct. 28, 1978, Pub. L. 95-539, § 6, 92 Stat. 2044.)

AMENDMENTS

1978—Pub. L. 95-539 struck out provision authorizing the Director to fix the compensation of Administrative Office employees in accordance with the Classification Act of 1949.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-539 effective Oct. 28, 1978, see section 10(a) of Pub. L. 95-539, set out as an Effective Date of 1978 Amendment note under section 602 of this title.

§ 604. Duties of Director generally

(a) The Director shall be the administrative officer of the courts, and under the supervision and direction of the Judicial Conference of the United States, shall:

[See main edition for text of (1) to (9)]

(10)(A) Purchase, exchange, transfer, distribute, and assign the custody of lawbooks, equipment, supplies, and other personal property for the judicial branch of Government (except the Supreme Court unless otherwise provided pursuant to paragraph (17)); (B) provide or make available readily to each court appropriate equipment for the interpretation of proceedings in accordance with section 1828 of this title; and (C) enter into and perform contracts and other transactions upon such terms as the Director may deem appropriate as may be necessary to the conduct of the work of the judicial branch of Government (except the Supreme Court unless otherwise provided pursuant to paragraph (17)), and contracts for nonpersonal services for pretrial services agencies, for the interpretation of proceedings, and for the provision of special interpretation services pursuant to section 1828 of this title may be awarded without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5);

[*See main edition for text of* (*11*) *and* (*12*)]

(13) Pursuant to section 1827 of this title, establish a program for the certification and utilization of interpreters in courts of the United States;

(14) Pursuant to section 1828 of this title, establish a program for the provision of special interpretation services in courts of the United States;

(15)(A) In those districts where the Director considers it advisable based on the need for interpreters, authorize the full-time or part-time employment by the court of certified interpreters; (B) where the Director considers it advisable based on the need for interpreters, appoint certified interpreters on a full-time or part-time basis, for services in various courts when he determines that such appointments will result in the economical provision of interpretation services; and (C) pay out of moneys appropriated for the judiciary interpreters' salaries, fees, and expenses, and other costs which may accrue in accordance with the provisions of sections 1827 and 1828 of this title;

(16) In the Director's discretion, (A) accept and utilize voluntary and uncompensated (gratuitous) services, including services as authorized by section 3102 of title 5, United States Code; and (B) accept, hold, administer, and utilize gifts and bequests of personal property for the purpose of aiding or facilitating the work of the judicial branch of Government, but gifts or bequests of money shall be covered into the Treasury;

(17) Perform such other duties as may be assigned to him by the Supreme Court or the Judicial Conference of the United States.

[*See main edition for text of* (*b*) *to* (*e*)]

(f) The Director may make, promulgate, issue, rescind, and amend rules and regulations (including regulations prescribing standards of conduct for Administrative Office employees) as may be necessary to carry out the Director's functions, powers, duties, and authority. The Director may publish in the Federal Register such rules, regulations, and notices for the judicial branch of Government as the Director determines to be of public interest; and the Director of the Federal Register hereby is authorized to accept and shall publish such materials.

(g)(1) When authorized to exchange personal property, the Director may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in such cases in whole or in part payment for the property acquired, but any transaction carried out under the authority of this subsection shall be evidenced in writing.

(2) The Director hereby is authorized to enter into contracts for public utility services and related terminal equipment for periods not exceeding ten years.

(As amended Oct. 28, 1978, Pub. L. 95-539, §§ 3, 4, 92 Stat. 2043.)

Amendment of Subsec. (a)(13) and (14)

Pub. L. 95-598, title II, § 225(a), title IV, § 402(c), Nov. 6, 1978, 92 Stat. 2665, 2682, without reference to changes made by section 3 of Pub. L. 95-539, provided that, effective Oct. 1, 1979, subsec. (a)(13) and (14) of this section are amended to read as follows:

(13) Lay before Congress, annually, statistical tables that will accurately reflect the business transacted by the several bankruptcy courts, and all other pertinent data relating to such courts;

(14) Perform such other duties as may be assigned to him by the Supreme Court or the Judicial Conference of the United States.

Addition of Subsec. (f)

Pub. L. 95-598, title II, § 225(b), title IV, § 402(c), Nov. 6, 1978, 92 Stat. 2665, 2682, without reference to changes made by section 4 of Pub. L. 95-539, provided that, effective Oct. 1, 1979, subsec. (f) of this section is added to read as follows:

(f) For each bankruptcy court, the Director shall name qualified persons to membership on the panel of trustees. The number and qualifications of persons named to membership on the panel of trustees shall be determined by rules and regulations to be adopted by the Director. An individual named to membership on the panel of trustees shall have a residency or office in the State served by the court or in any adjacent State. A corporation named to membership on the panel of trustees shall be authorized by its charter or by law to act as trustee and shall have an office in the State served by the court. The Director on his own initiative may at any time remove for cause a person named to a panel of trustees or remove a trustee appointed from the panel.

Amendments

1978—Subsec. (a)(10). Pub. L. 95-539, § 3(a), expanded the duties of the Director to include providing or making available equipment for interpretation of proceedings in accordance with section 1828 of this title and to include entering into and performing contracts necessary to the conduct of the work of the judicial branch and exempted from the provisions of section 5 of title 41 contracts for nonpersonal services for pretrial agencies, for interpretation of proceedings, and for special interpretation services pursuant to section 1828 of this title.

Subsec. (a)(13) to (16). Pub. L. 95-539, § 3(b), (c), added subsec. (a)(13) to (16). Former subsec. (a)(13) redesignated (a)(17).

Subsec. (a)(17). Pub. L. 95-539, § 3(b), redesignated former subsec. (a)(13) as (a)(17).

Subsecs. (f), (g). Pub. L. 95-539, § 4, added subsecs. (f) and (g).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-539 effective Oct. 28, 1978, see section 10(a) of Pub. L. 95-539, set out as an Effective Date of 1978 Amendment note under section 602 of this title.

COMPENSATION OF SECRETARIES AND LAW CLERKS

Pub. L. 95-431, title IV, § 401, Oct. 10, 1978, 92 Stat. 1037, provided in part: "That the salaries of secretaries and law clerks to circuit and district judges shall not exceed the compensation established in chapter 51 of title 5, United States Code, for General Schedule grade (GS) 11 and grade (GS) 12, respectively: *Provided further*, That (exclusive of step increases corresponding with those provided for by chapter 53 of title 5 of the United States Code, post differential and allowances for employees stationed outside the continental United States and in Alaska and of compensation paid for temporary assistance needed because of an emergency) the aggregate salaries paid to secretaries and law clerks appointed by each of the circuit and district judges shall not exceed $73,489 and $45,272 per annum, respectively, except in the case of the chief judge of each circuit and the chief judge of each district court having five or more district judges, in which case the aggregate salaries shall not exceed $91,747 and $57,608 per annum, respectively: *Provided further*, That the chief judge of each circuit may appoint a senior staff attorney to the court at a rate of compensation not to exceed General Schedule grade (GS) 15, without regard to the limitations referred to above."

Similar provisions were contained in the following acts:

Aug. 2, 1977, Pub. L. 95-86, title IV, § 401, 91 Stat. 435.

July 14, 1976, Pub. L. 94-362, title IV, § 401, 90 Stat. 953.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 1871 of this title; title 11 App. sections 701, 703.

§ 610. Courts defined

As used in this chapter the word "courts" includes the courts of appeals, district courts, and bankruptcy courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court.

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 226, 92 Stat. 2665.)

AMENDMENTS

1978—Pub. L. 95-598 inserted reference to bankruptcy courts.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

CHAPTER 42—FEDERAL JUDICIAL CENTER

Sec.
[629. Repealed.]

AMENDMENTS

1978—Pub. L. 95-598, title II, § 230(2), Nov. 6, 1978, 92 Stat. 2665, struck out item 629 "Organizational provisions".

§ 620. Federal Judicial Center

[*See main edition for text of* (*a*)]

(b) The Center shall have the following functions:

[*See main edition for text of* (*1*) *and* (*2*)]

(3) to stimulate, create, develop, and conduct programs of continuing education and training for personnel of the judicial branch of the Government, including, but not limited to, judges, clerks of court, probation officers, and United States magistrates; and

[*See main edition for text of* (*4*)]

(As amended Pub. L. 95-598, title II, § 227, Nov. 6, 1978, 92 Stat. 2665.)

AMENDMENTS

1978—Subsec. (b)(3). Pub. L. 95-598 struck out references to referees and commissioners and added reference to magistrates.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

§ 621. Board; composition, tenure of members, compensation

(a) The activities of the Center shall be supervised by a Board to be composed of—

[*See main edition for text of* (*1*)]

(2) two active judges of the courts of appeals of the United States, three active judges of the district courts of the United States, one active judge of the bankruptcy courts of the United States elected by vote of the members of the Judicial Conference of the United States; *Provided, however*, That the judges so elected shall not be members of the Judicial Conference of the United States; and

[*See main edition for text of* (*3*)]

(b) The term of office of each elected member of the Board shall be four years. A member elected to serve for an unexpired term arising by virtue of the death, disability, retirement, or resignation of a member shall be elected only for such unexpired term.

(As amended Pub. L. 95-598, title II, §§ 228, 229, Nov. 6, 1978, 92 Stat. 2665.)

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95-598, § 228, added reference to one active judge of the bankruptcy courts of the United States.

Subsec. (b). Pub. L. 95-598, § 229, struck out provisions requiring that section 629 of this title govern the terms of office of the first members elected to the Board.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

[§ 629. Repealed. Pub. L. 95-598, title II, § 230(1), Nov. 6, 1978, 92 Stat. 2665]

Section, added Pub. L. 90-219, title I, § 101, Dec. 20, 1967, 81 Stat. 667, related to organization provisions for the Board.

Effective Date of Repeal

Section repealed effective Nov. 6, 1978, see section 402(d) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

CHAPTER 43—UNITED STATES MAGISTRATES

Chapter Referred to in Other Sections

This chapter is referred to in title 48 sections 1424b, 1694.

§ 631. Appointment and tenure

[See main edition for text of (*a*) *and* (*b*)*]*

(c) A magistrate may hold no other civil or military office or employment under the United States: *Provided, however,* That, with the approval of the conference, a clerk or deputy clerk of a court of the United States may be appointed and serve as a part-time United States magistrate, but the conference shall fix the aggregate amount of compensation to be received for performing the duties of part-time magistrate and clerk or deputy clerk: *And provided further,* That retired officers and retired enlisted personnel of the Regular and Reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard, members of the Reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard, and members of the Army National Guard of the United States, the Air National Guard of the United States, and the Naval Militia and of the National Guard of a State, territory, or the District of Columbia, except the National Guard disbursing officers who are on a full-time salary basis, may be appointed and serve as United States magistrates.

[See main edition for text of (*d*) *to* (*j*)*]*

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 231, 92 Stat. 2665.)

Amendments

1978—Subsec. (c). Pub. L. 95-598 struck out "a part-time referee in bankruptcy or" following "of the conference," and "part-time referee in bankruptcy," following "magistrate and".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 634. Compensation

(a) Officers appointed under this chapter shall receive as full compensation for their services salaries to be fixed by the conference pursuant to section 633 of this title, at rates not to exceed $48,500 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967 and section 461 of this title, except that the salary of a part-time United States magistrate shall not be less than $100 nor more than one-half the maximum salary payable to a full-time magistrate. In fixing the amount of salary to be paid to any officer appointed under this chapter, consideration shall be given to the average number and the nature of matters that have arisen during the immediately preceding period of five years, and that may be expected thereafter to arise, over which such officer would have jurisdiction and to such other factors as may be material. Disbursement of salaries shall be made by or pursuant to the order of the Director.

[See main edition for text of (*b*) *and* (*c*)*]*

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 232, 92 Stat. 2665.)

References in Text

Section 225 of the Federal Salary Act of 1967, referred to in subsec. (a), is section 225 of Pub. L. 90-206, title II, Dec. 16, 1967, 81 Stat. 642, as amended, which is classified to chapter 11 (§ 351 et seq.) of Title 2, The Congress.

Amendments

1978—Subsec. (a). Pub. L. 95-598 substituted "not to exceed $48,500 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967 and section 461 of this title," for "for full-time and part-time United States magistrates not to exceed the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended,".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 636. Jurisdiction, powers, and temporary assignment

[See main edition for text of (*a*) *to* (*e*)*]*

(f) A United States magistrate may perform the verification function required by section 4107 of title 18, United States Code. A magistrate may be assigned by a judge of any United States district court to perform the verification required by section 4108 and the appointment of counsel authorized by section 4109 of title 18, United States Code, and may perform such functions beyond the territorial limits of the United States. A magistrate assigned such functions shall have no authority to perform any other function within the territory of a foreign country.

(As amended Oct. 28, 1977, Pub. L. 95-144, § 2, 91 Stat. 1220.)

Amendments

1977—Subsec. (f). Pub. L. 95-144 added subsec. (f).

CHAPTER 49—DISTRICT COURTS

Chapter Referred to in Other Sections

This chapter is referred to in title 48 sections 1424b, 1694.

§ 751. Clerks

Section Referred to in Other Sections

This section is referred to in section 775 of this title.

§ 752. Law clerks and secretaries

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 775 of this title.

§ 753. Reporters

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 775 of this title.

CHAPTER 50—BANKRUPTCY COURTS

Sec.
771. Clerks.
772. Other employees.
773. Records of proceedings; reporters.
774. Power to appoint.
775. Salaries of employees.

§ 771. Clerks

(a) Based on need each bankruptcy court may appoint a clerk who shall be subject to removal only by the court.

(b) The clerk may appoint, with the approval of the court, necessary deputies, clerical assistants, and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies, clerical assistants, and employees shall be subject to removal only by the clerk with the approval of the court. If there is no clerk, the Bankruptcy Judge shall perform the duties of this subsection.

(c) The clerk of each bankruptcy court shall reside in the district for which he is appointed. The bankruptcy court may designate places within the district for the offices of the clerk and his deputies, and their official stations.

(d) A clerk of a bankruptcy court or his deputy or assistant shall not receive any compensation or emoluments through any office or position to which he is appointed by the court, other than that received as such clerk, deputy or assistant, whether from the United States or from private litigants.

(e) The clerk of each bankruptcy court shall pay into the Treasury all fees, costs and other moneys collected by him, except uncollected fees not required by Act of Congress to be prepaid.

He shall make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him.

(Added Pub. L. 95-598, title II, § 233(a), Nov. 6, 1978, 92 Stat. 2666.)

EFFECTIVE DATE

Chapter effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 775 of this title.

§ 772. Other employees

Bankruptcy judges may appoint necessary other employees, including law clerks and secretaries, subject to any limitation on the aggregate salaries of such employees which may be imposed by law.

(Added Pub. L. 95-598, title II, § 233(a), Nov. 6, 1978, 92 Stat. 2666.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 775 of this title.

§ 773. Records of proceedings; reporters

(a) The bankruptcy court shall require a record to be made, whenever practicable, of all proceedings in cases had in open court. The Judicial Conference shall prescribe that the record be taken by electronic sound recording means, by a court reporter appointed or employed by such bankruptcy court to take a verbatim record by shorthand or mechanical means, or by an employee of such court designated by such court to take such a verbatim record.

(b) On the request of a party to a proceeding that has been recorded who has agreed to pay the fee for a transcript, or a judge of the bankruptcy court, a transcript of the original record of the requested parts of such proceeding shall be made and delivered promptly to such party or judge. Any such transcript that is certified shall be deemed prima facie a correct statement of the testimony taken and proceedings had. No transcript of the proceedings of the bankruptcy court shall be considered as official except those made from certified records.

(c) Fees for transcripts furnished in proceedings to persons permitted to appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question).

(Added Pub. L. 95-598, title II, § 233(a), Nov. 6, 1978, 92 Stat. 2666.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 775 of this title.

§ 774. Power to appoint

Whenever a majority of the bankruptcy judges of any bankruptcy court cannot agree upon the appointment of any officer of such court, the chief judge shall make such appointment.

(Added Pub. L. 95-598, title II, § 233(a), Nov. 6, 1978, 92 Stat. 2667.)

§ 775. Salaries of employees

The salary of an individual appointed or employed under section 771(a), 772, or 773(a) of this title shall be the same as the salary of an individual appointed or employed under section 751(a), 752, or 753(a) of this title, as the case may be. The salaries of individuals appointed under section 771(b) of this title shall be comparable to the salaries of individuals appointed under section 751(b) of this title.

(Added Pub. L. 95-598, title II, § 233(a), Nov. 6, 1978, 92 Stat. 2667.)

CHAPTER 51—COURT OF CLAIMS

§ 792. Commissioners

(a) The Court of Claims may appoint sixteen commissioners who shall be subject to removal by the court and shall devote all their time to the duties of the office. The Court shall designate one of the commissioners to serve at the will of the court as chief commissioner.

[*See main edition for text of* (b)]

(As amended July 20, 1977, Pub. L. 95-69, § 3, 91 Stat. 274.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-69 increased the number of commissioners from fifteen to sixteen.

COMPENSATION OF COMMISSIONERS

Salaries of commissioners increased to $51,200 effective on the first day of the first pay period beginning on or after Oct. 1, 1978, by Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, set out as a note under section 5332 of Title 5, Government Organization and Employees. Ex. Ord. No. 12087, further provided that pursuant to the Legislative Branch Appropriation Act, 1979 [Pub. L. 95-391, title III, § 304, Sept. 30, 1978, 92 Stat. 788, set out as a note under section 5318 of Title 5], funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1978, which was $48,500.

CHAPTER 57—GENERAL PROVISIONS APPLICABLE TO COURT OFFICERS AND EMPLOYEES

§ 957. Clerks ineligible for certain offices

(a) A clerk of a district court or bankruptcy court or any of his deputies shall not be appointed a commissioner, master, referee or receiver in any case, unless there are special reasons requiring such appointment which are recited in the order of appointment.

[*See main edition for text of* (b)]

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 234, 92 Stat. 2667.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-598 added reference to bankruptcy court.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 959. Trustees and receivers suable; management; State laws

[*See main edition for text of* (a)]

(b) Except as provided in section 1166 of title 11, a trustee, receiver or manager appointed in any cause pending in any court of the United States, including a debtor in possession, shall manage and operate the property in his possession as such trustee, receiver or manager according to the requirements of the valid laws of the State in which such property is situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof.

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 235, 92 Stat. 2667.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-598 substituted "Except as provided in section 1166 of title 11, a trustee" for "A trustee".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

PART IV—JURISDICTION AND VENUE

Chap. Sec.
90. District Courts and Bankruptcy Courts 1471

AMENDMENTS

1978—Pub. L. 95-598, title II, § 241(b), Nov. 6, 1978, 92 Stat. 2671, added the item relating to chapter 90.

CHAPTER 81—SUPREME COURT

§ 1251. Original jurisdiction

(a) The Supreme Court shall have original and exclusive jurisdiction of all controversies between two or more States.

(b) The Supreme Court shall have original but not exclusive jurisdiction of:

(1) All actions or proceedings to which ambassadors, other public ministers, consuls, or vice consuls of foreign states are parties;

(2) All controversies between the United States and a State;

(3) All actions or proceedings by a State against the citizens of another State or against aliens.

(As amended Sept. 30, 1978, Pub. L. 95-393, § 8(b), 92 Stat. 810.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-393, § 8(b)(1), designated the introductory provision of subsec. (a) and (a)(1) as (a), and struck out "(2) All actions or proceedings against ambassadors or other public ministers of foreign states or their domestics or domestic servants, not inconsistent with the law of nations."

Subsec. (b)(1). Pub. L. 95-393, § 8(b)(2), substituted "to which ambassadors, other public ministers, consuls, or" for "brought by ambassadors or other public ministers of foreign states or to which consuls or".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-393 effective at the end of the ninety-day period beginning on Sept. 30, 1978, see section 9 of Pub. L. 95-393, set out as an Effective Date note under section 254a of Title 22, Foreign Relations and Intercourse.

§ 1254. Courts of appeals; certiorari; appeal; certified questions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2350 of this title; title 2 section 437g; title 5 section 1508, 7123; title 7 sections 136n, 194, 2050; title 12 sections 1464, 1730, 1730a, 1786, 1818; title 15 sections 21, 29, 45, 57a, 77l, 78aa, 79x, 79y, 80a-42, 80a-43, 80b-13, 687a, 687e, 717r, 1193, 1262, 1394, 1474, 1710, 1719, 1913, 2004, 2008, 2060, 2618, 3416; title 16 sections 825*l*, 825p; title 19 sections 1641, 2322; title 20 sections 351d, 585, 1070c-3, 1128, 1132a-7, 1207, 1234d, 1263, 1413, 1416, 2309 title 21 sections 346a, 348, 355, 360g, 371; title 22 section 1631e, 2740, 2851, 3086; title 23 section 131; title 26 sections 3310, 6363, 7482; title 27 section 204; title 29 sections 160, 210, 660, 667; title 30 section 816; title 31 section 1263; title 33 sections 505, 520, 988; title 38 section 784; title 40 section 333; title 42 sections 263a, 263f, 291h, 300s, 504, 1316, 2022, 2689*l*, 3027, 3414, 3759, 5311, 5405, 6068, 6306, 6869, 8412; title 45 section 153; title 47 section 402; title 49 sections 45, 1486, 1675.

§ 1255. Court of Claims; certiorari; certified questions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 70v-3; title 50 App. section 1218a.

§ 1257. State courts; appeal; certiorari

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 3207; title 16 section 2633.

§ 1258. Supreme Court of Puerto Rico; appeal; certiorari

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 3207; title 16 section 2633.

CHAPTER 83—COURTS OF APPEALS

Sec.
1293. Bankruptcy appeals.

AMENDMENTS

1978—Pub. L. 95-598, title II, § 236(b), Nov. 6, 1978, 92 Stat. 2667, added item 1293.

§ 1293. Bankruptcy appeals

(a) The courts of appeals shall have jurisdiction of appeals from all final decisions of panels designated under section 160(a) of this title.

(b) Notwithstanding section 1482 of this title, a court of appeals shall have jurisdiction of an appeal from a final judgment, order, or decree of an appellate panel created under section 160 or a District court of the United States or from a final judgment, order, or decree of a bankruptcy court of the United States if the parties to such appeal agree to a direct appeal to the court of appeals.

(Added Pub. L. 95-598, title II, § 236(a), Nov. 6, 1978, 92 Stat. 2667.)

PRIOR PROVISIONS

A prior section 1293, acts June 25, 1948, ch. 646, 62 Stat. 929; Mar. 18, 1959, Pub. L. 86-3, § 14(b), 73 Stat. 10, providing for appeal from the supreme court of Puerto Rico to the court of appeals for the First Circuit, was repealed by Pub. L. 87-189, § 3, Aug. 30, 1961, 75 Stat. 417, and is now covered by section 1258 of this title.

EFFECTIVE DATE

Section effective Apr. 1, 1984; see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 1294. Circuits in which decisions reviewable

Appeals from reviewable decisions of the district, bankruptcy, and territorial courts shall be taken to the courts of appeals as follows:

(1) From a district court of the United States to the court of appeals for the circuit embracing the district;

(2) From the United States District Court for the District of the Canal Zone, to the Court of Appeals for the Fifth Circuit;

(3) From the District Court of the Virgin Islands, to the Court of Appeals for the Third Circuit;

(4) From the District Court of Guam, to the Court of Appeals for the Ninth Circuit;

(5) From a panel designated under section 160(a) of this title to the court of appeals for the circuit in which the panel was so designated;

(6) From a bankruptcy court of the United States to the court of appeals for the circuit embracing the district in which the bankruptcy court is located.

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 237, 92 Stat. 2667.)

AMENDMENTS

1978—Pub. L. 95-598 added reference to bankruptcy courts in the provisions preceding subsec. (1) and added subsecs. (5) and (6).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

CHAPTER 85—DISTRICT COURTS; JURISDICTION

Sec.
1334. Bankruptcy appeals.
1337. Commerce and antitrust regulations; amount in controversy, costs.
1351. Consuls, vice consuls, and members of a diplomatic mission as defendant.
1363. Jurors' employment rights.
1364. Direct actions against insurers of members of diplomatic missions and their families.
1364. Senate actions.
1364. Construction of references to laws of the United States or Acts of Congress.

AMENDMENTS

1978—Pub. L. 95-598, title II, § 238(b), Nov. 6, 1978, 92 Stat. 2668, substituted "Bankruptcy appeals" for "Bankruptcy matters and proceedings" in item 1334.

Pub. L. 95-572, § 6(b)(2), Nov. 2, 1978, 92 Stat. 2457, added item 1363 and redesignated former item 1363, which read "Construction of references to laws of the United States or Acts of Congress", as 1364.

Pub. L. 95-521, title VII, § 705(f)(2), Oct. 26, 1978, 92 Stat. 1880, added item 1364, reading "Senate actions".

Pub. L. 95-486, § 9(c), Oct. 20, 1978, 92 Stat. 1634, substituted "Commerce and antitrust regulations; amount in controversy, costs" for "Commerce and antitrust regulations" in item 1337.

Pub. L. 95-393, §§ 7(b), 8(a)(2), Sept. 30, 1978, 92 Stat. 810, substituted "Consuls, vice consuls, and members of a diplomatic mission as defendant" for "Consuls and vice consuls as defendants" in item 1351 and added item 1364 reading "Direct actions against insurers of members of diplomatic missions and their families".

§ 1334. Bankruptcy appeals

(a) The district courts for districts for which panels have not been ordered appointed under section 160 of this title shall have jurisdiction of appeals from all final judgments, orders, and decrees of bankruptcy courts.

(b) The district courts for such districts shall have jurisdiction of appeals from interlocutory orders and decrees of bankruptcy courts, but only by leave of the district court to which the appeal is taken.

(c) A district court may not refer an appeal under that section to a magistrate or to a special master.

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 238(a), 92 Stat. 2667.)

AMENDMENTS

1978—Pub. L. 95-598 substituted "Bankruptcy appeals" for "Bankruptcy matters and proceedings" as the section catchline and substituted subsecs. (a), (b), and (c) for former undesignated provisions comprising the section which had provided that the district courts had original jurisdiction, exclusive of the courts of the States, of all matters and proceedings in bankruptcy.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1408 of this title.

§ 1337. Commerce and antitrust regulations; amount in controversy, costs

(a) The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies: *Provided, however*, That the district courts shall have original jurisdiction of an action brought under section 20(11) of part I of the Interstate Commerce Act (49 U.S.C. 20(11)) or section 219 of part II of such Act (49 U.S.C. 319), only if the matter in controversy for each receipt or bill of lading exceeds $10,000, exclusive of interest and costs.

(b) Except when express provision therefor is otherwise made in a statute of the United States, where a plaintiff who files the case under section 20(11) of part I of the Interstate Commerce Act (49 U.S.C. 20(11)) or section 219 of part II of such Act (49 U.S.C. 319), originally in the Federal courts is finally adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of any interest and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.

(As amended Oct. 20, 1978, Pub. L. 95-486, § 9(a), 92 Stat. 1633.)

CODIFICATION

The Interstate Commerce Act, referred to in text, is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation. Sections 20(11) and 219 of the Act are restated in pertinent part in section 11707 of Title 49. For complete distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-486 designated existing provisions as subsec. (a) and, as so designated, added proviso giving the district courts original jurisdiction of actions brought under sections 20(11) and 319 of Title 49, Transportation, when the amounts in controversy for each receipt exceed $10,000, exclusive of interests and costs.

Subsec. (b). Pub. L. 95-486 added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 41 sections 607, 609.

§ 1341. Taxes by States

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 11503.

§ 1346. United States as defendant

(a) The district courts shall have original jurisdiction, concurrent with the Court of Claims, of:

[*See main edition for text of* (*1*)]

(2) Any other civil action or claim against the United States, not exceeding $10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort, except that the district courts shall not have jurisdiction of any civil action or claim against the United States founded upon any express or implied contract with the United States or for liquidated or unliquidated damages in cases not sounding in tort which are subject to sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978. For the purpose of this paragraph, an express or implied contract with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration shall be considered an express or implied contract with the United States.

[*See main edition for text of* (*b*) *to* (*f*)]

(As amended Nov. 1, 1978, Pub. L. 95-563, § 14(a), 92 Stat. 2389.)

REFERENCES IN TEXT

Sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978, referred to in subsec. (a)(2), are sections 8(g)(1) and 10(a)(1) of Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2387, 2388, which are classified to sections 607(g)(1) and 609(a)(1) of Title 41, Public Contracts.

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95-563 excluded from the jurisdiction of district courts civil actions or claims against the United States founded upon any express or implied contract with the United States or for damages in cases not sounding in tort subject to sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-563 effective with respect to contracts entered into 120 days after Nov. 1, 1978 and, at the election of the contractor, with respect to any claim pending at such time before the contracting officer or initiated thereafter, see section 16 of Pub. L. 95-563, set out as an Effective Date note under section 601 of Title 41, Public Contracts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1504, 2402, 2409a, 2411, 2671, 2676, 2677, 2678, 2679, 2680 of this title; title 2 section 190g; title 5 sections 3373, 3374; title 10 section 1089; title 20 section 1105; title 22 section 817; title 25 section 640d-17; title 26 section 7422; title 29 section 926; title 38 sections 351, 4116; title 41 section 602; title 42 sections 233, 247b, 405, 2221, 2223, 2458a, 4654, 5032, 5055; title 46 section 1242; title 47 section 606; title 49 section 1540; title 50 App. sections 9, 2405.

§ 1351. Consuls, vice consuls, and members of a diplomatic mission as defendant

The district courts shall have original jurisdiction, exclusive of the courts of the States, of all civil actions and proceedings against—

(1) consuls or vice consuls of foreign states; or

(2) members of a mission or members of their families (as such terms are defined in section 2 of the Diplomatic Relations Act).

(As amended Sept. 30, 1978, Pub. L. 95-393, § 8(a)(1), 92 Stat. 810.)

REFERENCES IN TEXT

Section 2 of the Diplomatic Relations Act, referred to in clause (2), is section 2 of Pub. L. 95-393, Sept. 30, 1978, 92 Stat. 808, which is classified to section 254a of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1978—Pub. L. 95-393 substituted "Consuls, vice consuls, and members of a diplomatic mission as defendant" for "Consuls and vice consuls as defendants" in section catchline, designated existing provisions as the introductory provision preceding par. (1), and in such introductory provision as so designated, substituted "civil actions and proceedings against—" for "actions and proceedings against consuls or vice consuls of foreign states", and added pars. (1) and (2).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-393 effective at the end of the ninety-day period beginning on Sept. 30, 1978, see section 9 of Pub. L. 95-393, set out as an Effective Date note under section 254a of Title 22, Foreign Relations and Intercourse.

§ 1358. Eminent domain

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 79c; title 50 section 167f.

§ 1360. State civil jurisdiction in actions to which Indians are parties

(a) Each of the States or Territories listed in the following table shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State or Territory to the same extent that such State or Territory has jurisdiction over other civil causes of action, and those civil laws of such State or Territory that are of general application to private persons or private property shall have the same force and effect within such Indian country as they have elsewhere within the State or Territory:

State or Territory of	*Indian country affected*
Alaska	All Indian country within the State.
California	All Indian country within the State.
Minnesota	All Indian country within the State, except the Red Lake Reservation.
Nebraska	All Indian country within the State.
Oregon	All Indian country within the State, except the Warm Springs Reservation.
Wisconsin	All Indian country within the State.

[See main edition for text of (b) and (c)]

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 239, 92 Stat. 2668.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-598 substituted "within the State" for "within the Territory" in the item relating to Alaska.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 sections 711e, 1300f, 1323, 1918.

§ 1361. Action to compel an officer of the United States to perform his duty

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 923; title 42 sections 300j-9, 5851, 7622.

§ 1363. Jurors' employment rights

The district courts shall have original jurisdiction of any civil action brought for the protection of jurors' employment under section 1875 of this title.

(Added Pub. L. 95-572, § 6(b)(1), Nov. 2, 1978, 92 Stat. 2457.)

PRIOR PROVISIONS

A prior section 1363, added Pub. L. 91-358, title I, § 172(c)(1), July 29, 1970, 84 Stat. 590, relating to construction of references to laws of the United States or Acts of Congress, was renumbered section 1364.

EFFECTIVE DATE

Section 7 of Pub. L. 95-572 provided that:

"(a) Except as provided in subsection (b) of this section, the amendments made by this Act [enacting sections 1363 and 1875, renumbering section 1363, relating to construction of references to laws of the United States or Acts of Congress, as section 1364, and amending sections 1863, 1865, 1866, 1869, and 1871 of this title] shall apply with respect to any grand or petit juror summoned for service or actually serving on or after the date of enactment of this Act [Nov. 2, 1978].

"(b) The amendment made by section 5 of this Act [to section 1871 of this title] shall apply with respect to any grand or petit juror serving on or after the sixtieth day following the date of enactment of this Act [Nov. 2, 1978]."

§ 1364. Direct actions against insurers of members of diplomatic missions and their families

(a) The district courts shall have original and exclusive jurisdiction, without regard to the amount in controversy, of any civil action commenced by any person against an insurer who by contract has insured an individual, who is a member of a mission (as defined in the Vienna Convention on Diplomatic Relations) or a member of the family of such a member of a mission, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, against liability for personal injury, death, or damage to property.

(b) Any direct action brought against an insurer under subsection (a) shall be tried without a jury, but shall not be subject to the defense that the insured is immune from suit, that the insured is an indispensable party, or in the absence of fraud or collusion, that the insured has violated a term of the contract, unless the contract was cancelled before the claim arose.

(Added Pub. L. 95-393, § 7(a), Sept. 30, 1978, 92 Stat. 809.)

CODIFICATION

Two other sections 1364 are set out following this section.

EFFECTIVE DATE

Section effective at the end of the ninety-day period beginning on Sept. 30, 1978, see section 9 of Pub. L. 95-393, set out as an Effective Date note under section 254a of Title 22, Foreign Relations and Intercourse.

§ 1364. Senate actions

(a) The United States District Court for the District of Columbia shall have original jurisdiction, without regard to the amount in controversy, over any civil action brought by the Senate or any authorized committee or subcommittee of the Senate to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal or failure to comply with, any subpena or order issued by the Senate or committee or subcommittee of the Senate to any entity acting or purporting to act under color or authority of State law or to any natural person to secure the production of documents or other materials of any kind or the answering of any deposition or interrogatory or to secure testimony or any combination thereof. This section shall not apply to an action to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal to comply with, any subpena or order issued to an officer or employee of the Federal Government acting within his official capacity.

(b) Upon application by the Senate or any authorized committee or subcommittee of the Senate, the district court shall issue an order to an entity or person refusing, or failing to comply with, or threatening to refuse or not to comply with, a subpena or order of the Senate or committee or subcommittee of the Senate requiring such entity or person to comply forthwith. Any refusal or failure to obey a lawful order of the district court issued pursuant to this section may be held by such court to be a contempt thereof. A contempt proceeding shall be commenced by an order to show cause before the court why the entity or person refusing or failing to obey the court order should not be held in contempt of court. Such contempt proceeding shall be tried by the court and shall be summary in manner. The purpose of sanctions imposed as a result of such contempt proceeding shall be to compel obedience to the order of the court. Process in any such action or contempt proceeding may be served in any judicial district wherein the entity or party refusing, or failing to comply, or threatening to refuse or not to comply, resides, transacts business, or may be found, and subpenas for witnesses who are required to attend such proceeding may run into any other district. Nothing in this section shall confer upon such court jurisdiction to affect by injunction or otherwise the issuance or effect of any subpena or order of the Senate or any committee or subcommittee of the Senate or to review, modify, suspend, terminate, or set aside any such subpena or order. An action, contempt proceeding, or sanction brought or imposed pursuant to this section shall not abate upon adjournment sine die by the Senate at the end of a Congress if the Senate or the committee or subcommittee of the Senate which issued the subpena or order certifies to the court that it maintains its interest in securing the documents, answers, or testimony during such adjournment.

(c) In any civil action or contempt proceeding brought pursuant to this section, the court shall assign the action or proceeding for hearing at the earliest practicable date and cause the action or proceeding in every way to be expedited. Any appeal or petition for review from any order or judgment in such action or proceeding shall be expedited in the same manner.

(d) The Senate or any committee or subcommittee of the Senate commencing and prosecuting a civil action or contempt proceeding under this section may be represented in such action by such attorneys as the Senate may designate.

(e) A civil action commenced or prosecuted under this section, may not be authorized pursuant to the Standing Order of the Senate "authorizing suits by Senate Committees" (S. Jour. 572, May 28, 1928).

(f) For the purposes of this section the term "committee" includes standing, select, or special committees of the Senate established by law or resolution.

(Added Pub. L. 95-521, title VII, § 705(f)(1), Oct. 26, 1978, 92 Stat. 1879.)

CODIFICATION

Two other sections 1364 are set out in this chapter, one preceding and one following this section.

EFFECTIVE DATE

Section effective Jan. 3, 1979, see section 717 of Pub. L. 95-521, set out as an Effective Date note under section 288 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 288d of title 2.

§ 1364. Construction of references to laws of the United States or Acts of Congress

For the purposes of this chapter, references to laws of the United States or Acts of Congress do not include laws applicable exclusively to the District of Columbia.

(Added Pub. L. 91-358, title I, § 172(c)(1), July 29, 1970, 84 Stat. 590, § 1363, renumbered § 1364, Pub. L. 95-572, § 6(b)(1), Nov. 2, 1978, 92 Stat. 2456.)

Codification

Two other sections 1364 are set out preceding this section.

CHAPTER 87—DISTRICT COURTS; VENUE

Sec.
1408. Bankruptcy appeals.

Amendments

1978—Pub. L. 95-598, title II, § 240(b), Nov. 6, 1978, 92 Stat. 2668, added item 1408.

§ 1403. Eminent domain

Section Referred to in Other Sections

This section is referred to in title 16 section 79c; title 42 section 2222; title 50 section 167f.

§ 1408. Bankruptcy appeals

An appeal under section 1334 of this title from a judgment, order, or decree of a bankruptcy court may be brought only in the judicial district in which such bankruptcy court is located.

(Added Pub. L. 95-598, title II, § 240(a), Nov. 6, 1978, 92 Stat. 2668.)

Effective Date

Section effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

CHAPTER 89—DISTRICT COURTS; REMOVAL OF CASES FROM STATE COURTS

Chapter Referred to in Other Sections

This chapter is referred to in title 33 section 1323; title 39 section 409; title 42 section 7192.

§ 1441. Actions removable generally

Section Referred to in Other Sections

This section is referred to in section 1332 of this title; title 33 section 1323.

§ 1445. Nonremovable actions

[*See main edition for text of* (a)]

(b) A civil action in any State court against a common carrier or its receivers or trustees to recover damages for delay, loss, or injury of shipments, arising under section 11707 of title 49, may not be removed to any district court of the United States unless the matter in controversy exceeds $10,000, exclusive of interest and costs.

[*See main edition for text of* (c)]

(As amended Oct. 17, 1978, Pub. L. 95-473, § 2(a)(3)(A), 92 Stat. 1465; Oct. 20, 1978, Pub. L. 95-486, § 9(b), 92 Stat. 1634.)

Amendments

1978—Subsec. (b). Pub. L. 95-486 substituted "$10,000" for "$3,000".

Pub. L. 95-473 substituted "section 11707 of title 49" for "section 20 of Title 49".

§ 1446. Procedure for removal

[*See main edition for text of* (a) *and* (b)]

(c)(1) A petition for removal of a criminal prosecution shall be filed not later than thirty days after the arraignment in the State court, or at any time before trial, whichever is earlier, except that for good cause shown the United States district court may enter an order granting the petitioner leave to file the petition at a later time.

(2) A petition for removal of a criminal prosecution shall include all grounds for such removal. A failure to state grounds which exist at the time of the filing of the petition shall constitute a waiver of such grounds, and a second petition may be filed only on grounds not existing at the time of the original petition. For good cause shown, the United States district court may grant relief from the limitations of this paragraph.

(3) The filing of a petition for removal of a criminal prosecution shall not prevent the State court in which such prosecution is pending from proceeding further, except that a judgment of conviction shall not be entered unless the petition is first denied.

(4) The United States district court to which such petition is directed shall examine the petition promptly. If it clearly appears on the face of the petition and any exhibits annexed thereto that the petition for removal should not be granted, the court shall make an order for its summary dismissal.

(5) If the United States district court does not order the summary dismissal of such petition, it shall order an evidentiary hearing to be held promptly and after such hearing shall make such disposition of the petition as justice shall require. If the United States district court determines that such petition shall be granted, it shall so notify the State court in which prosecution is pending, which shall proceed no further.

[*See main edition for text of* (d)]

(e) Promptly after the filing of such petition for the removal of a civil action and bond the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the petition with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded.

[*See main edition for text of* (f)]

(As amended July 30, 1977, Pub. L. 95-78, § 3, 91 Stat. 321.)

Amendments

1977—Subsec. (c). Pub. L. 95-78, § 3(a), designated existing provisions as par. (1), set a period of 30 days as the maximum allowable time prior to commencement of trial and following arraignment during which time a petition for removal can be filed, provided for the grant of additional time for good cause shown, and added pars. (2) to (5).

Subsec. (e). Pub. L. 95-78, § 3(b), inserted "for the removal of a civil action" following "filing of such petition".

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-78 effective Oct. 1, 1977, see section 4 of Pub. L. 95-78, set out as an Effective Date of Pub. L. 95-78 note under section 3771 of Title 18, Crimes and Criminal Procedure.

CHAPTER 90—DISTRICT COURTS AND BANKRUPTCY COURTS

Sec.
1471. Jurisdiction.
1472. Venue of cases under title 11.
1473. Venue of proceedings arising under or related to cases under title 11.
1474. Venue of cases ancillary to foreign proceedings.
1475. Change of venue.
1476. Creation or alteration of district or division.
1477. Cure or waiver of defects.
1478. Removal to the bankruptcy courts.
1479. Provisional remedies; security.
1480. Jury trials.
1481. Powers of bankruptcy court.
1482. Appeals.

JURISDICTION AND PROCEDURE DURING TRANSITION

Pub. L. 95-598, title IV, § 405, Nov. 6, 1978, 92 Stat. 2685, provided that:

"(a)(1) All cases commenced under title 11 of the United States Code during the transition period shall be referred to the United States bankruptcy judges. The United States bankruptcy judges may exercise in such cases the jurisdiction and powers conferred by subsection (b) of this section on the courts of bankruptcy continued by section 404(a) of this Act [set out in a note preceding section 151 of this title], and all proceedings in such cases shall be before the United States bankruptcy judges, except—

"(A) a proceeding to enjoin a court;

"(B) a proceeding to punish a criminal contempt—

"(i) not committed in the bankruptcy judge's actual presence; or

"(ii) warranting a punishment of imprisonment; or

"(C) an appeal from a judgment, order, decree, or decision of a United States bankruptcy judge.

"(2) Except as provided in subsection (c) of this section, any proceeding in a court of bankruptcy in a case under title 11 of the United States Code that is not before the United States bankruptcy judge shall be before the judge of the court of bankruptcy for the district in which such case is pending.

"(b) During the transition period, the amendments made by sections 241 [enacting this chapter], 243 [amending section 1869 of this title], 250 [enacting section 2256 of this title], and 252 [amending rule 1101 of the Federal Rules of Evidence] of this Act shall apply to the courts of bankruptcy continued by section 404(a) of this Act [set out in a note preceding section 151 of this title] the same as such amendments apply to the United States bankruptcy courts established under section 201 of this Act [enacting chapter 6 of this title].

"(c)(1) During the transition period, an appeal from a judgment, order, or decree of a United States bankruptcy judge shall be—

"(A) if the circuit council of the circuit in which the bankruptcy judge sits so orders for the district in which the bankruptcy judge sits, then to a panel of three bankruptcy judges appointed in the manner prescribed by section 160 of title 28 of the United States Code, as added by section 201 of this Act;

"(B) if the parties to the appeal agree to a direct appeal to the court of appeals for such circuit, then to such court of appeals; or

"(C) to the district court for the district in which the bankruptcy judge sits.

"(2) During the transition period, the jurisdiction of the district courts, the courts of appeals, and panels of bankruptcy judges to hear appeals shall be the same as the jurisdiction of such courts and panels granted under the amendments made by sections 236 [enacting section 1293 of this title], 237 [amending section 1294 of this title], 238 [amending section 1334 of this title], and 241 [enacting this chapter] of this Act to hear appeals from the judgments, orders, and decrees of the bankruptcy courts established under section 201 of this Act [enacting chapter 6 of this title].

"(d) The rules prescribed under section 2075 of title 28 of the United States Code and in effect on September 30, 1979, shall apply to cases under title 11, to the extent not inconsistent with the amendments made by this Act, or with this Act [see Tables for complete classification of Pub. L. 95-598], until such rules are repealed or superseded by rules prescribed and effective under such section, as amended by section 248 of this Act."

TRANSITION TO NEW COURT SYSTEM

Pub. L. 95-598, title IV, § 409, Nov. 6, 1978, 92 Stat. 2687, provided that:

"(a) On April 1, 1984, there shall be transferred to the appropriate United States bankruptcy court established under section 201 of this Act [enacting chapter 6 of this title]—

"(1) cases, and matters and proceedings in cases, under the Bankruptcy Act [Title 11, Bankruptcy] that are pending, at the end of September 30, 1983, in the courts of bankruptcy continued under section 404(a) of this Act [set out in a note preceding section 151 of this title], other than cases, and matters and proceedings in cases, under—

"(A) section 77 [section 205 of Title 11] or chapter IX [section 401 et seq. of Title 11] of the Bankruptcy Act; or

"(B) chapter X of the Bankruptcy Act [section 501 et seq. of Title 11] in which a general reference under section 117 of the Bankruptcy Act [section 517 of Title 11] is not in effect; and

"(2) cases, and proceedings arising under or related to cases, under title 11 of the United States Code that are pending, at the end of March 31, 1984, in the courts of bankruptcy continued under section 404(a) of this Act [set out in a note preceding section 151 of this title].

"(b) Civil actions pending on March 31, 1984, over which a United States bankruptcy court established under section 201 of this Act [enacting chapter 6 of this title] has jurisdiction on April 1, 1984, shall not abate, but continuation of any such action that has not been finally determined before April 1, 1985, may be enjoined, and any claims or causes of actions not resolved may be removed to a bankruptcy court under chapter 90 of title 28 of the United States Code.

"(c) All Government publications, law books, recording equipment, and other property furnished to bankruptcy judges' offices as of March 31, 1984, and of particular use to the offices of the judges of the United States bankruptcy courts, shall be transferred to the United States bankruptcy courts under the supervision of the Director of the Administrative Office of the United States Courts."

ADDITIONAL RULEMAKING POWER

Pub. L. 95-598, title IV, § 410, Nov. 6, 1978, 92 Stat. 2687, provided that:

"The Supreme Court may issue such additional rules of procedure, consistent with Acts of Congress, as may be necessary for the orderly transfer of functions and records and the orderly transition to the new bankruptcy court system created by this Act [see Tables for complete classification]."

§ 1471. Jurisdiction

(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.

(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11 or arising in or related to cases under title 11.

(c) The bankruptcy court for the district in which a case under title 11 is commenced shall exercise all of the jurisdiction conferred by this section on the district courts.

(d) Subsection (b) or (c) of this section does not prevent a district court or a bankruptcy court, in the interest of justice, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11. Such abstention, or a decision not to abstain, is not reviewable by appeal or otherwise.

(e) The bankruptcy court in which a case under title 11 is commenced shall have exclusive jurisdiction of all of the property, wherever located, of the debtor, as of the commencement of such case.

(Added Pub. L. 95-598, title II, § 241(a), Nov. 6, 1978, 92 Stat. 2668.)

EFFECTIVE DATE

Chapter effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 1472. Venue of cases under title 11

Except as provided in section 1474 of this title, a case under title 11 may be commenced in the bankruptcy court for a district—

(1) in which the domicile, residence, principal place of business, in the United States, or principal assets, in the United States, of the person or entity that is the subject of such case have been located for the 180 days immediately preceding such commencement, or for a longer portion of such 180-day period than the domicile, residence, principal place of business, in the United States, or principle assets, in the United States, of such person were located in any other district; or

(2) in which there is pending a case under title 11 concerning such person's affiliate, general partner, or partnership.

(Added Pub. L. 95-598, title II, § 241(a), Nov. 6, 1978, 92 Stat. 2669.)

§ 1473. Venue of proceedings arising under or related to cases under title 11

(a) Except as provided in subsections (b) and (d) of this section, a proceeding arising in or related to a case under title 11 may be commenced in the bankruptcy court in which such case is pending.

(b) Except as provided in subsection (d) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case to recover a money judgment of or property worth less than $1,000 or a consumer debt of less than $5,000 only in the bankruptcy court for the district in which a defendant resides.

(c) Except as provided in section (b) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case as statutory successor to the debtor or creditors under section 541 or 544(b) of title 11 in the bankruptcy court for the district where the State or Federal court sits in which, under applicable nonbankruptcy venue provisions, the debtor or creditors, as the case may be, may have commenced an action on which such proceeding is based if the case under title 11 had not been commenced.

(d) A trustee may commence a proceeding arising under title 11 or arising in or related to a case under title 11 based on a claim arising after the commencement of such case from the operation of the business of the debtor only in the bankruptcy court for the district where a State or Federal court sits in which, under applicable nonbankruptcy venue provisions, an action on such claim may have been brought.

(e) A proceeding arising in or related to a case under title 11, based on a claim arising after the commencement of such case from the operation of the business of the debtor, may be commenced against the representative of the estate in such case in the bankruptcy court for the district where the State or Federal court sits in which the party commencing such proceeding may, under applicable nonbankruptcy venue provisions, have brought an action on such claim, or in the bankruptcy court in which such case in pending.

(Added Pub. L. 95-598, title II, § 241(a), Nov. 6, 1978, 92 Stat. 2669.)

§ 1474. Venue of cases ancillary to foreign proceedings

(a) A case under section 304 of title 11 to enjoin the commencement or continuation of an action or proceeding in a State or Federal court, or the enforcement of a judgment, may be commenced only in the bankruptcy court for the district where the State or Federal court sits in which is pending the action or proceeding against which the injunction is sought.

(b) A case under section 304 of title 11 to enjoin the enforcement of a lien against property, or to require turnover of property of an estate, may be commenced only in the bankruptcy court for the district in which such property is found.

(c) A case under section 304 of title 11, other than a case specified in subsection (a) or (b) of this section, may be commenced only in the bankruptcy court for the district in which is located the principal assets in the United States, of the estate that is the subject of such case.

(Added Pub. L. 95-598, title II, § 241(a), Nov. 6, 1978, 92 Stat. 2670.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1472 of this title.

§ 1475. Change of venue

A bankruptcy court may transfer a case under title 11 or a proceeding arising under or related to such a case to a bankruptcy court for another district, in the interest of justice and for the convenience of the parties.

(Added Pub. L. 95-598, title II, § 241(a), Nov. 6, 1978, 92 Stat. 2670.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1477 of this title.

§ 1476. Creation or alteration of district or division

Cases or proceedings pending at the time of the creation of a new district or division or transfer of a county or territory from one division or district to another may be tried in the district or division as it existed at the institution of the case or proceeding, or in the district or division so created or to which the county or territory is so transferred as the parties shall agree or the court direct.

(Added Pub. L. 95-598, title II, § 241(a), Nov. 6, 1978, 92 Stat. 2670.)

§ 1477. Cure or waiver of defects

(a) The bankruptcy court of a district in which is filed a case or proceeding laying venue in the wrong division or district may, in the interest of justice and for the convenience of the parties, retain such case or proceeding, or may transfer, under section 1475 of this title, such case or proceeding to any other district or division.

(b) Nothing in this chapter shall impair the jurisdiction of a bankruptcy court of any matter involving a party who does not interpose timely and sufficient objection to the venue.

(Added Pub. L. 95-598, title II, § 241(a), Nov. 6, 1978, 92 Stat. 2670.)

§ 1478. Removal to the bankruptcy courts

(a) A party may remove any claim or cause of action in a civil action, other than a proceeding before the United States Tax Court or a civil action by a Government unit to enforce such governmental unit's police or regulatory power, to the bankruptcy court for the district where such civil action is pending, if the bankruptcy courts have jurisdiction over such claim or cause of action.

(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order under this subsection remanding a claim or cause of action, or a decision not so remanding, is not reviewable by appeal or otherwise.

(Added Pub. L. 95-598, title II, § 241(a), Nov. 6, 1978, 92 Stat. 2670.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1479 of this title.

§ 1479. Provisional remedies; security

(a) Whenever any action is removed to a bankruptcy court under section 1478 of this title, any attachment or sequestration of the goods or estate of the defendant in such action shall hold the goods or estate to answer the final judgment or decree in the same manner as they would have been held to answer final judgment or decree had it been rendered by the court from which the action was removed, unless the attachment or sequestration is invalidated under applicable law.

(b) Any bond, undertaking, or security given by either party in an action prior to removal under section 1478 of this title shall remain valid and effectual notwithstanding such removal, unless such bond, undertaking, or other security is invalidated under applicable law.

(c) All injunctions, orders, or other proceedings in an action prior to removal of such action under section 1478 of this title shall remain in full force and effect until dissolved or modified by the bankruptcy court.

(Added Pub. L. 95-598, title II, § 241(a), Nov. 6, 1978, 92 Stat. 2670.)

§ 1480. Jury trials

(a) Except as provided in subsection (b) of this section, this chapter and title 11 do not affect any right to trial by jury, in a case under title 11 or in a proceeding arising under title 11 or arising in or related to a case under title 11, that is provided by any statute in effect on September 30, 1979.

(b) The bankruptcy court may order the issues arising under section 303 of title 11 to be tried without a jury.

(Added Pub. L. 95-598, title II, § 241(a), Nov. 6, 1978, 92 Stat. 2671.)

§ 1481. Powers of bankruptcy court

A bankruptcy court shall have the powers of a court of equity, law, and admiralty, but may not enjoin another court or punish a criminal contempt not committed in the presence of the judge of the court or warranting a punishment of imprisonment.

(Added Pub. L. 95-598, title II, § 241(a), Nov. 6, 1978, 92 Stat. 2671.)

§ 1482. Appeals

(a) Panels designated under section 160(a) of this title shall have jurisdiction of appeals from all final judgments, orders, and decrees of bankruptcy courts.

(b) Panels designated under section 160(a) of this title shall have jurisdiction of appeals from interlocutory judgments, orders, and decrees of bankruptcy courts, but only by leave of the panel to which the appeal is taken.

(Added Pub. L. 95-598, title II, § 241(a), Nov. 6, 1978, 92 Stat. 2671.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1293 of this title.

CHAPTER 91—COURT OF CLAIMS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 5 section 7703.

§ 1491. Claims against United States generally; actions involving Tennessee Valley Authority

The Court of Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort. For the purpose of this paragraph, an express or implied contract with the Army and Air Force Ex-

change Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration shall be considered an express or implied contract with the United States. To provide an entire remedy and to complete the relief afforded by the judgment, the court may, as an incident of and collateral to any such judgment, issue orders directing restoration to office or position, placement in appropriate duty or retirement status, and correction of applicable records, and such orders may be issued to any appropriate official of the United States. In any case within its jurisdiction, the court shall have the power to remand appropriate matters to any administrative or executive body or official with such direction as it may deem proper and just. The Court of Claims shall have jurisdiction to render judgment upon any claim by or against, or dispute with, a contractor arising under the Contract Disputes Act of 1978.

[See main edition for text of 2d par.]

(As amended Nov. 1, 1978, Pub. L. 95-563, § 14(i), 92 Stat. 2391.)

References in Text

The Contracts Disputes Act of 1978, referred to in text, is Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2383, which is classified principally to chapter 9 (§ 601 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 41 and Tables.

Amendments

1978—Pub. L. 95-563 provided that the Court of Claims would have jurisdiction to render judgment upon any claim by or against, or dispute with, a contractor arising under the Contract Disputes Act of 1978.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-563 effective with respect to contracts entered into 120 days after Nov. 1, 1978 and, at the election of the contractor, with respect to any claim pending at such time before the contracting officer or initiated thereafter, see section 16 of Pub. L. 95-563, set out as an Effective Date note under section 601 of Title 41, Public Contracts.

Section Referred to in Other Sections

This section is referred to in sections 2409a, 2510 of this title; title 25 section 70a; title 41 section 602; title 42 section 4654; title 46 section 1242; title 47 section 606.

§ 1492. Congressional reference cases

Section Referred to in Other Sections

This section is referred to in section 2509 of this title; title 17 section 502.

§ 1498. Patent and copyright cases

[See main edition for text of (a)]

(b) Hereafter, whenever the copyright in any work protected under the copyright laws of the United States shall be infringed by the United States, by a corporation owned or controlled by the United States, or by a contractor, subcontractor, or any person, firm, or corporation acting for the Government and with the authorization or consent of the Government, the exclusive remedy of the owner of such copyright shall be by action against the United States in the Court of Claims for the recovery of his reasonable and entire compensation as damages for such infringement, including the minimum statutory damages as set forth in section 504(c) of title 17, United States Code: *Provided,* That a Government employee shall have a right of action against the Government under this subsection except where he was in a position to order, influence, or induce use of the copyrighted work by the Government: *Provided, however,* That this subsection shall not confer a right of action on any copyright owner or any assignee of such owner with respect to any copyrighted work prepared by a person while in the employment or service of the United States, where the copyrighted work was prepared as a part of the official functions of the employee, or in the preparation of which Government time, material, or facilities were used: *And provided further,* That before such action against the United States has been instituted the appropriate corporation owned or controlled by the United States or the head of the appropriate department or agency of the Government, as the case may be, is authorized to enter into an agreement with the copyright owner in full settlement and compromise for the damages accruing to him by reason of such infringement and to settle the claim administratively out of available appropriations.

Except as otherwise provided by law, no recovery shall be had for any infringement of a copyright covered by this subsection committed more than three years prior to the filing of the complaint or counterclaim for infringement in the action, except that the period between the date of receipt of a written claim for compensation by the Department or agency of the Government or corporation owned or controlled by the United States, as the case may be, having authority to settle such claim and the date of mailing by the Government of a notice to the claimant that his claim has been denied shall not be counted as a part of the three years, unless suit is brought before the last-mentioned date.

[See main edition for text of (c) and (d)]

(As amended Oct. 19, 1976, Pub. L. 94-553, title I, § 105(c), 90 Stat. 2599.)

Amendments

1976—Subsec. (b). Pub. L. 94-553 substituted "section 504(c) of title 17" for "section 101(b) of title 17".

Effective Date of 1976 Amendment

Amendment of subsec. (b) by Pub. L. 94-553 effective Jan. 1, 1978, see section 102 of Pub. L. 94-553 set out as an Effective Date note preceding section 101 of Title 17, Copyrights.

PART V—PROCEDURE

CHAPTER 111—GENERAL PROVISIONS

§ 1656. Creation of new district or division or transfer of territory; lien enforcement

The creation of a new district or division or the transfer of any territory to another district

or division shall not affect or divest any lien theretofore acquired in a district court or in a bankruptcy court upon property within such district, division or territory.

[*See main edition for text of 2d par.*]

(As amended Nov. 6, 1978, Pub. L. 95–598, title II, § 242, 92 Stat. 2671.)

Amendments

1978—Pub. L. 95–598 added "or in a bankruptcy court" following "a district court".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95–598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

CHAPTER 119—EVIDENCE; WITNESSES

Sec.	
1827.	Interpreters in courts of the United States.
1828.	Special interpretation services.

Amendments

1978—Pub. L. 95–539, § 2(b), Oct. 28, 1978, 92 Stat. 2042, added items 1827 and 1828.

Chapter Referred to in Other Sections

This chapter is referred to in title 11 App. section 503.

§ 1821. Per diem and mileage generally; subsistence

(a)(1) Except as otherwise provided by law, a witness in attendance at any court of the United States, or before a United States Magistrate, or before any person authorized to take his deposition pursuant to any rule or order of a court of the United States, shall be paid the fees and allowances provided by this section.

(2) As used in this section, the term "court of the United States" includes, in addition to the courts listed in section 451 of this title, any court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States.

(b) A witness shall be paid an attendance fee of $30 per day for each day's attendance. A witness shall also be paid the attendance fee for the time necessarily occupied in going to and returning from the place of attendance at the beginning and end of such attendance or at any time during such attendance.

(c)(1) A witness who travels by common carrier shall be paid for the actual expenses of travel on the basis of the means of transportation reasonably utilized and the distance necessarily traveled to and from such witness's residence by the shortest practical route in going to and returning from the place of attendance. Such a witness shall utilize a common carrier at the most economical rate reasonably available. A receipt or other evidence of actual cost shall be furnished.

(2) A travel allowance equal to the mileage allowance which the Administrator of General Services has prescribed, pursuant to section 5704 of title 5, for official travel of employees of the Federal Government shall be paid to each witness who travels by privately owned vehicle. Computation of mileage under this paragraph shall be made on the basis of a uniformed table of distances adopted by the Administrator of General Services.

(3) Toll charges for toll roads, bridges, tunnels, and ferries, taxicab fares between places of lodging and carrier terminals, and parking fees (upon presentation of a valid parking receipt), shall be paid in full to a witness incurring such expenses.

(4) All normal travel expenses within and outside the judicial district shall be taxable as costs pursuant to section 1920 of this title.

(d)(1) A subsistence allowance shall be paid to a witness (other than a witness who is incarcerated) when an overnight stay is required at the place of attendance because such place is so far removed from the residence of such witness as to prohibit return thereto from day to day.

(2) A subsistence allowance for a witness shall be paid in an amount not to exceed the maximum per diem allowance prescribed by the Administrator of General Services, pursuant to section 5702(a) of title 5, for official travel in the area of attendance by employees of the Federal Government.

(3) A subsistence allowance for a witness attending in an area designated by the Administrator of General Services as a high-cost area shall be paid in an amount not to exceed the maximum actual subsistence allowance prescribed by the Administrator, pursuant to section 5702(c)(B) of title 5, for official travel in such area by employees of the Federal Government.

(4) When a witness is detained pursuant to section 3149 of title 18 for want of security for his appearance, he shall be entitled for each day of detention when not in attendance at court, in addition to his subsistence, to the daily attendance fee provided by subsection (b) of this section.

(e) An alien who has been paroled into the United States for prosecution, pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)), or an alien who either has admitted belonging to a class of aliens who are deportable or has been determined pursuant to section 242(b) of such Act (8 U.S.C. 1252(b)) to be deportable, shall be ineligible to receive the fees or allowances provided by this section.

(As amended Oct. 27, 1978, Pub. L. 95–535, § 1, 92 Stat. 2033.)

Amendments

1978—Pub. L. 95–535 increased the daily witness attendance fee from $20 to $30, substituted provisions relating to compensation for the actual expenses of travel based on the form of transportation used, to a travel allowance equal to the mileage allowance under section 5704 of Title 5 for a witness travelling by privately owned vehicle, and to tolls, taxi fares, and parking fees for provisions that a witness would receive 10 cents per mile and that mileage computation would be based on a uniform table of distances regardless of the mode of travel employed, provisions relating to a subsistence allowance in amounts not to exceed those which Government employees receive for official travel for provisions that such subsistence allowance would be $16 per day, provisions relating to a witness detained for want of security for his appearance being entitled to the daily attendance fee in addition to subsistence for provisions that such a witness would be entitled to $1 per day in addition to his subsistence, and added provisions defining "court of the United States" and relating to travel expenses being taxable as costs and to certain aliens being ineligible to receive fees and allowances.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2 of Pub. L. 95-535 provided that: "The amendments made by this Act [amending this section] shall take effect on October 1, 1978, or on the date of enactment [Oct. 27, 1978], whichever occurs later."

§ 1827. Interpreters in courts of the United States

(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of interpreters in courts of the United States.

(b) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters in courts of the United States in bilingual proceedings and proceedings involving the hearing impaired (whether or not also speech impaired), and in so doing, the Director shall consider the education, training, and experience of those persons. The Director shall maintain a current master list of all interpreters certified by the Director and shall report annually on the frequency of requests for, and the use and effectiveness of, interpreters. The Director shall prescribe a schedule of fees for services rendered by interpreters.

(c) Each United States district court shall maintain on file in the office of the clerk of court a list of all persons who have been certified as interpreters, including bilingual interpreters and oral or manual interpreters for the hearing impaired (whether or not also speech impaired), by the Director of the Administrative Office of the United States Courts in accordance with the certification program established pursuant to subsection (b) of this section.

(d) The presiding judicial officer, with the assistance of the Director of the Administrative Office of the United States Courts, shall utilize the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise competent interpreter, in any criminal or civil action initiated by the United States in a United States district court (including a petition for a writ of habeas corpus initiated in the name of the United States by a relator), if the presiding judicial officer determines on such officer's own motion or on the motion of a party that such party (including a defendant in a criminal case), or a witness who may present testimony in such action—

(1) speaks only or primarily a language other than the English language; or

(2) suffers from a hearing impairment (whether or not suffering also from a speech impairment)

so as to inhibit such party's comprehension of the proceedings or communication with counsel or the presiding judicial officer, or so as to inhibit such witness' comprehension of questions and the presentation of such testimony.

(e)(1) If any interpreter is unable to communicate effectively with the presiding judicial officer, the United States attorney, a party (including a defendant in a criminal case), or a witness, the presiding judicial officer shall dismiss such interpreter and obtain the services of another interpreter in accordance with this section.

(2) In any criminal or civil action in a United States district court, if the presiding judicial officer does not appoint an interpreter under subsection (d) of this section, an individual requiring the services of an interpreter may seek assistance of the clerk of court or the Director of the Administrative Office of the United States Courts in obtaining the assistance of a certified interpreter.

(f)(1) Any individual other than a witness who is entitled to interpretation under subsection (d) of this section may waive such interpretation in whole or in part. Such a waiver shall be effective only if approved by the presiding judicial officer and made expressly by such individual on the record after opportunity to consult with counsel and after the presiding judicial officer has explained to such individual, utilizing the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise competent interpreter, the nature and effect of the waiver.

(2) An individual who waives under paragraph (1) of this subsection the right to an interpreter may utilize the services of a noncertified interpreter of such individual's choice whose fees, expenses, and costs shall be paid in the manner provided for the payment of such fees, expenses, and costs of an interpreter appointed under subsection (d) of this section.

(g)(1) Except as otherwise provided in this subsection or section 1828 of this title, the salaries, fees, expenses, and costs incident to providing the services of interpreters under subsection (d) of this section shall be paid by the Director of the Administrative Office of the United States Courts from sums appropriated to the Federal judiciary.

(2) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses shall, unless direction is made under paragraph (3) of this subsection, be paid by the Attorney General from sums appropriated to the Department of Justice.

(3) The presiding judicial officer may in such officer's discretion direct that all or part of such salaries, fees, expenses, and costs shall be apportioned between or among the parties or shall be taxed as costs in a civil action.

(4) Any moneys collected under this subsection may be used to reimburse the appropriations obligated and disbursed in payment for such services.

(h) In any action in a court of the United States where the presiding judicial officer establishes, fixes, or approves the compensation and expenses payable to an interpreter from funds appropriated to the Federal judiciary, the presiding judicial officer shall not establish, fix, or approve compensation and expenses in excess of the maximum allowable under the schedule of fees for services prescribed pursuant to subsection (b) of this section.

(i) The term "presiding judicial officer" as used in this section and section 1828 of this title includes a judge of a United States district court, a United States magistrate, and a referee in bankruptcy.

(j) The term "United States district court" as used in this section and section 1828 of this title includes any court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States established by section 132 of this title.

(k) The interpretation provided by certified interpreters pursuant to this section shall be in the consecutive mode except that the presiding judicial officer, with the approval of all interested parties, may authorize a simultaneous or summary interpretation when such officer determines that such interpretation will aid in the efficient administration of justice. The presiding judicial officer on such officer's motion or on the motion of a party may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.

(Added Pub. L. 95-539, § 2(a), Oct. 28, 1978, 92 Stat. 2040.)

EFFECTIVE DATE

Section effective ninety days after Oct. 28, 1978, see section 10(b) of Pub. L. 95-539, set out as an Effective Date of 1978 Amendment note under section 602 of this title.

SHORT TITLE

For Short Title of Pub. L. 95-539 as "Court Interpreters Act", see Short Title of 1978 Amendments note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 604 of this title.

§ 1828. Special interpretation services

(a) The Director of the Administrative Office of the United States Courts shall establish a program for the provision of special interpretation services in criminal actions and in civil actions initiated by the United States (including petitions for writs of habeas corpus initiated in the name of the United States by relators) in a United States district court. The program shall provide a capacity for simultaneous interpretation services in multidefendant criminal actions and multidefendant civil actions.

(b) Upon the request of any person in any action for which special interpretation services established pursuant to subsection (a) are not otherwise provided, the Director, with the approval of the presiding judicial officer, may make such services available to the person requesting the services on a reimbursable basis at rates established in conformity with section 501 of the Act of August 31, 1951 (ch. 376, title 5, 65 Stat. 290; 31 U.S.C. 483a), but the Director may require the prepayment of the estimated expenses of providing the services by the person requesting them.

(c) Except as otherwise provided in this subsection, the expenses incident to providing services under subsection (a) of this section shall be paid by the Director from sums appropriated to the Federal judiciary. A presiding judicial officer, in such officer's discretion, may order that all or part of the expenses shall be apportioned between or among the parties or shall be taxed as costs in a civil action, and any moneys collected as a result of such order may be used to reimburse the appropriations obligated and disbursed in payment for such services.

(d) Appropriations available to the Director shall be available to provide services in accordance with subsection (b) of this section, and moneys collected by the Director under that subsection may be used to reimburse the appropriations charged for such services. A presiding judicial officer, in such officer's discretion, may order that all or part of the expenses shall be apportioned between or among the parties or shall be taxed as costs in the action.

(Added Pub. L. 95-539, § 2(a), Oct. 28, 1978, 92 Stat. 2042.)

EFFECTIVE DATE

Section effective ninety days after Oct. 28, 1978, see section 10(b) of Pub. L. 95-539, set out as an Effective Date of 1978 Amendment note under section 602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 604, 1827, 1920 of this title.

CHAPTER 121—JURIES; TRIAL BY JURY

Sec.
1875. Protection of jurors' employment.

AMENDMENTS

1978—Pub. L. 95-572, § 6(a)(2), Nov. 2, 1978, 92 Stat. 2456, added item 1875.

§ 1861. Declaration of policy

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-572, § 1, Nov. 2, 1978, 92 Stat. 2453, provided that: "This Act [enacting sections 1363 and 1875 of this title, amending sections 1863, 1865, 1866, 1869, and 1871 of this title, renumbering section 1363 of this title (relating to construction of references to laws of the United States or Acts of Congress) as section 1364 of this title, and enacting a provision set out as a note under section 1363 of this title] may be cited as the 'Jury System Improvements Act of 1978'."

§ 1863. Plan for random jury selection

[*See main edition for text of* (*a*)]

(b) Among other things, such plan shall—

[*See main edition for text of* (*1*) *to* (*6*)]

(7) fix the time when the names drawn from the qualified jury wheel shall be disclosed to parties and to the public. If the plan permits these names to be made public, it may nevertheless permit the chief judge of the district court, or such other district court judge as the plan may provide, to keep these names confidential in any case where the interests of justice so require.

(8) specify the procedures to be followed by the clerk or jury commission in assigning persons whose names have been drawn from the

qualified jury wheel to grand and petit jury panels.

[(9) Renumbered (8)]

[*See main edition for text of* (c) *and* (d)]

(As amended Nov. 2, 1978, Pub. L. 95-572, § 2(a), 92 Stat. 2453.)

AMENDMENTS

1978—Subsec. (b)(7) to (9). Pub. L. 95-572 struck out par. (7) relating to random jury selection plan provision for fixing the distance, in miles or in travel time, from each place of holding court beyond which prospective jurors residing should, on individual request, be excused from jury service on the ground of undue hardship in traveling to the place where court was held, now incorporated in definition of "undue hardship or extreme inconvenience" in section 1869(j) of this title, and redesignated former pars. (8) and (9) as (7) and (8).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-572 applicable with respect to any grand or petit juror summoned for service or actually serving on or after Nov. 2, 1978, see section 7(a) of Pub. L. 95-572, set out as an Effective Date note under section 1363 of this title.

§ 1864. Drawing of names from the master jury wheel; completion of juror qualification form

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1869 of this title.

§ 1865. Qualifications for jury service

[*See main edition for text of* (a)]

(b) In making such determination the chief judge of the district court, or such other district court judge as the plan may provide, shall deem any person qualified to serve on grand and petit juries in the district court unless he—

[*See main edition for text of* (1) *to* (4)]

(5) has a charge pending against him for the commission of, or has been convicted in a State or Federal court of record of, a crime punishable by imprisonment for more than one year and his civil rights have not been restored.

(As amended Nov. 2, 1978, Pub. L. 95-572, § 3(a), 92 Stat. 2453.)

AMENDMENTS

1978—Subsec. (b)(5). Pub. L. 95-572 struck out phrase "by pardon or amnesty" following "civil rights have not been restored".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-572 applicable with respect to any grand or petit juror summoned for service or actually serving on or after Nov. 2, 1978, see section 7(a) of Pub. L. 95-572, set out as an Effective Date note under section 1363 of this title.

§ 1866. Selection and summoning of jury panels

[*See main edition for text of* (a) *and* (b)]

(c) Except as provided in section 1865 of this title or in any jury selection plan provision adopted pursuant to paragraph (5) or (6) of section 1863(b) of this title, no person or class of persons shall be disqualified, excluded, excused, or exempt from service as jurors: *Provided,* That any person summoned for jury service may be (1) excused by the court, upon a showing of undue hardship or extreme inconvenience, for such period as the court deems necessary, at the conclusion of which such person shall be summoned again for jury service under subsections (b) and (c) of this section, or (2) excluded by the court on the ground that such person may be unable to render impartial jury service or that his service as a juror would be likely to disrupt the proceedings, or (3) excluded upon peremptory challenge as provided by law, or (4) excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown, or (5) excluded upon determination by the court that his service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations. No person shall be excluded under clause (5) of this subsection unless the judge, in open court, determines that such is warranted and that exclusion of the person will not be inconsistent with sections 1861 and 1862 of this title. The number of persons excluded under clause (5) of this subsection shall not exceed one per centum of the number of persons who return executed jury qualification forms during the period, specified in the plan, between two consecutive fillings of the master jury wheel. The names of persons excluded under clause (5) of this subsection, together with detailed explanations for the exclusions, shall be forwarded immediately to the judicial council of the circuit, which shall have the power to make any appropriate order, prospective or retroactive, to redress any misapplication of clause (5) of this subsection, but otherwise exclusions effectuated under such clause shall not be subject to challenge under the provisions of this title. Any person excluded from a particular jury under clause (2), (3), or (4) of this subsection shall be eligible to sit on another jury if the basis for his initial exclusion would not be relevant to his ability to serve on such other jury.

[*See main edition for text of* (d) *to* (g)]

(As amended Nov. 2, 1978, Pub. L. 95-572, § 2(b), 92 Stat. 2453.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-572 deleted from introductory text reference to par. (7) of section 1863(b) of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-572 applicable with respect to any grand or petit juror summoned for service or actually serving on or after Nov. 2, 1978, see section 7(a) of Pub. L. 95-572, set out as an Effective Date note under section 1363 of this title.

§ 1869. Definitions

For purposes of this chapter—

[*See main edition for text of* (a) *to* (g)]

(h) "juror qualification form" shall mean a form prescribed by the Administrative Office of the United States Courts and approved by

the Judicial Conference of the United States, which shall elicit the name, address, age, race, occupation, education, length of residence within the judicial district, distance from residence to place of holding court, prior jury service, and citizenship of a potential juror, and whether he should be excused or exempted from jury service, has any physical or mental infirmity impairing his capacity to serve as juror, is able to read, write, speak, and understand the English language, has pending against him any charge for the commission of a State or Federal criminal offense punishable by imprisonment for more than one year, or has been convicted in any State or Federal court of record of a crime punishable by imprisonment for more than one year and has not had his civil rights restored. The form shall request, but not require, any other information not inconsistent with the provisions of this title and required by the district court plan in the interests of the sound administration of justice. The form shall also elicit the sworn statement that his responses are true to the best of his knowledge. Notarization shall not be required. The form shall contain words clearly informing the person that the furnishing of any information with respect to his religion, national origin, or economic status is not a prerequisite to his qualification for jury service, that such information need not be furnished if the person finds it objectionable to do so, and that information concerning race is required solely to enforce nondiscrimination in jury selection and has no bearing on an individual's qualification for jury service.

(i) "public officer" shall mean a person who is either elected to public office or who is directly appointed by a person elected to public office;

(j) "undue hardship or extreme inconvenience", as a basis for excuse from immediate jury service under section 1866(c)(1) of this chapter, shall mean great distance, either in miles or traveltime, from the place of holding court, grave illness in the family or any other emergency which outweighs in immediacy and urgency the obligation to serve as a juror when summoned, or any other factor which the court determines to constitute an undue hardship or to create an extreme inconvenience to the juror; and in addition, in situations where it is anticipated that a trial or grand jury proceeding may require more than thirty days of service, the court may consider, as a further basis for temporary excuse, severe economic hardship to an employer which would result from the absence of a key employee during the period of such service;

(k) "publicly draw", as referred to in sections 1864 and 1866 of this chapter, shall mean a drawing which is conducted within the district after reasonable public notice and which is open to the public at large under the supervision of the clerk or jury commission, except that when a drawing is made by means of electronic data processing, "publicly draw" shall mean a drawing which is conducted at a data processing center located in or out of the district, after reasonable public notice given in the district for which juror names are being drawn, and which is open to the public at large under such supervision of the clerk or jury commission as the Judicial Conference of the United States shall by regulation require; and

(*l*) "jury summons" shall mean a summons issued by a clerk of court, jury commission, or their duly designated deputies, containing either a preprinted or stamped seal of court, and containing the name of the issuing clerk imprinted in preprinted, type, or facsimile manner on the summons or the envelopes transmitting the summons.

(As amended Nov. 2, 1978, Pub. L. 95-572, §§ 3(b), 4, 92 Stat. 2453.)

AMENDMENT OF SUBSEC. (f)

Pub. L. 95-598, title II, § 243, title IV, § 402(b), Nov. 6, 1978, 92 Stat. 2671, 2682, provided that, effective Apr. 1, 1984, subsec. (f) of this section is amended by inserting "chapter 6 of title 28, United States Code," immediately after "chapter 5 of title 28, United States Code,".

AMENDMENTS

1978—Subsec. (h). Pub. L. 95-572, § 3(b), struck out phrase "by pardon or amnesty" following "civil rights restored".

Subsecs. (j) to (*l*). Pub. L. 95-572, § 4, added subsecs. (j) to (*l*).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-572 applicable with respect to any grand or petit juror summoned for service or actually serving on or after Nov. 2, 1978, see section 7(a) of Pub. L. 95-572, set out as an Effective Date note under section 1363 of this title.

§ 1871. Fees

(a) Grand and petit jurors in district courts appearing pursuant to this chapter shall be paid the fees and allowances provided by this section. The requisite fees and allowances shall be disbursed on the certificate of the clerk of court in accordance with the procedure established by the Director of the Administrative Office of the United States Courts. Attendance fees for extended service under subsection (b) of this section shall be certified by the clerk only upon the order of a district judge.

(b)(1) A juror shall be paid an attendance fee of $30 per day for actual attendance at the place of trial or hearing. A juror shall also be paid the attendance fee for the time necessarily occupied in going to and returning from such place at the beginning and end of such service or at any time during such service.

(2) A petit juror required to attend more than thirty days in hearing one case may be paid, in the discretion of the trial judge, an additional fee, not exceeding $5 more than the attendance fee, for each day in excess of thirty days on which he is required to hear such case.

(3) A grand juror required to attend more than forty-five days of actual service may be paid, in the discretion of the district judge in charge of the particular grand jury, an additional fee, not exceeding $5 more than the attendance fee, for each day in excess of forty-five days of actual service.

(4) A grand or petit juror required to attend more than ten days of actual service may be paid, in the discretion of the judge, the appropriate fees at the end of the first ten days and at the end of every ten days of service thereafter.

(5) Certification of additional attendance fees may be ordered by the judge to be made effective commencing on the first day of extended service, without reference to the date of such certification.

(c)(1) A travel allowance not to exceed the maximum rate per mile that the Director of the Administrative Office of the United States Courts has prescribed pursuant to section 604(a)(7) of this title for payment to supporting court personnel in travel status using privately owned automobiles shall be paid to each juror, regardless of the mode of transportation actually employed. The prescribed rate shall be paid for the distance necessarily traveled to and from a juror's residence by the shortest practical route in going to and returning from the place of service. Actual mileage in full at the prescribed rate is payable at the beginning and at the end of a juror's term of service.

(2) The Director shall promulgate rules regulating interim travel allowances to jurors. Distances traveled to and from court should coincide with the shortest practical route.

(3) Toll charges for toll roads, bridges, tunnels, and ferries shall be paid in full to the juror incurring such charges. In the discretion of the court, reasonable parking fees may be paid to the juror incurring such fees upon presentation of a valid parking receipt. Parking fees shall not be included in any tabulation of mileage cost allowances.

(4) Any juror who travels to district court pursuant to summons in an area outside of the contiguous forty-eight States of the United States shall be paid the travel expenses provided under this section, or actual reasonable transportation expenses subject to the discretion of the district judge or clerk of court as circumstances indicate, exercising due regard for the mode of transportation, the availability of alternative modes, and the shortest practical route between residence and court.

(d)(1) A subsistence allowance covering meals and lodging of jurors shall be established from time to time by the Director of the Administrative Office of the United States Courts pursuant to section 604(a)(7) of this title, except that such allowance shall not exceed the allowance for supporting court personnel in travel status in the same geographical area. Claims for such allowance shall not require itemization.

(2) A subsistence allowance shall be paid to a juror when an overnight stay is required at the place of holding court, and for the time necessarily spent in traveling to and from the place of attendance if an overnight stay is required.

(3) A subsistence allowance for jurors serving in district courts outside of the contiguous forty-eight States of the United States shall be allowed at a rate not to exceed that per diem allowance which is paid to supporting court personnel in travel status in those areas where the Director of the Administrative Office of the United States Courts has prescribed an increased per diem fee pursuant to section 604(a)(7) of this title.

(e) During any period in which a jury is ordered to be kept together and not to separate, the actual cost of subsistence shall be paid upon the order of the court in lieu of the subsistence allowances payable under subsection (d) of this section. Such allowance for the jurors ordered to be kept separate or sequestered shall include the cost of meals, lodging, and other expenditures ordered in the discretion of the court for their convenience and comfort.

(f) A juror who must necessarily use public transportation in traveling to and from court, the full cost of which is not met by the transportation expenses allowable under subsection (c) of this section on account of the short distance traveled in miles, may be paid, in the discretion of the court, the actual reasonable expense of such public transportation, pursuant to the methods of payment provided by this section. Jurors who are required to remain at the court beyond the normal business closing hour for deliberation or for any other reason may be transported to their homes, or to temporary lodgings where such lodgings are ordered by the court, in a manner directed by the clerk and paid from funds authorized under this section.

(g) The Director of the Administrative Office of the United States Courts shall promulgate such regulations as may be necessary to carry out his authority under this section.

(As amended Nov. 2, 1978, Pub. L. 95–572, § 5, 92 Stat. 2454.)

AMENDMENTS

1978—Subsecs. (a) to (g). Pub. L. 95–572, in revising the text, substituted subsecs. (a) to (g) for prior five unnumbered paragraphs, and among other changes, deleted reference to fees for service before United States commissioners, now provided for in chapter 43 (section 631 et seq.) of this title relating to United States magistrates; increased to $30 from $20 allowance for actual attendance; continued the discretionary additional fee for extended service, increasing to forty-five from thirty days the basic service requirement; generalized travel allowance provisions in place of 10 cents per mile travel allowance from residence to place of service when commencing and terminating service and any necessary daily or interim travel, not to exceed a subsistence allowance of $16 per day; and deleted provision for same fees for service in districts courts for districts of Guam and Canal Zone as provided for services in other Federal district courts as covered in definition of "district court of the United States" in section 1869(f) of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–572 applicable with respect to any grand or petit juror serving on or after the sixtieth day following Nov. 2, 1978, see section 7(b) of Pub. L. 95–572, set out as an Effective Date note under section 1363 of this title.

§ 1875. Protection of jurors' employment

(a) No employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States.

(b) Any employer who violates the provisions of this section—

(1) shall be liable for damages for any loss of wages or other benefits suffered by an employee by reason of such violation;

(2) may be enjoined from further violations of this section and ordered to provide other appropriate relief, including but not limited to the reinstatement of any employee discharged by reason of his jury service; and

(3) shall be subject to a civil penalty of not more than $1,000 for each violation as to each employee.

(c) Any individual who is reinstated to a position of employment in accordance with the provisions of this section shall be considered as having been on furlough or leave of absence during his period of jury service, shall be reinstated to his position of employment without loss of seniority, and shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such individual entered upon jury service.

(d)[1] An individual claiming that his employer has violated the provisions of this section may make application to the district court for the district in which such employer maintains a place of business and the court shall, upon finding probable merit in such claim, appoint counsel to represent such individual in any action in the district court necessary to the resolution of such claim. Such counsel shall be compensated and necessary expenses repaid to the extent provided by section 3006A of title 18, United States Code.

(2) In any action or proceeding under this section, the court may award a prevailing employee who brings such action by retained counsel a reasonable attorney's fee as part of the costs. The court may award a prevailing employer a reasonable attorney's fee as part of the costs if the court determines that the action is frivolous, vexatious, or brought in bad faith.

(Added Pub. L. 95-572, § 6(a)(1), Nov. 2, 1978, 92 Stat. 2456.)

Effective Date

Section applicable with respect to any grand or petit juror summoned for service or actually serving on or after Nov. 2, 1978, see section 7(a) of Pub. L. 95-572, set out as an Effective Date note under section 1363 of this title.

Section Referred to in Other Sections

This section is referred to in section 1363 of this title.

CHAPTER 123—FEES AND COSTS

Sec.
1930. Bankruptcy courts.

Amendments

1978—Pub. L. 95-598, title II, § 246(b), Nov. 6, 1978, 92 Stat. 2672, added item 1930.

Chapter Referred to in Other Sections

This chapter is referred to in title 11 App. sections 507, 707, 1307, 1325.

§ 1914. District court; filing and miscellaneous fees; rules of court

(a) The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of $60, except that on application for a writ of habeas corpus the filing fee shall be $5.

[See main edition for text of (b) to (d)]

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 244, 92 Stat. 2671.)

Amendments

1978—Subsec. (a). Pub. L. 95-598 substituted "$60" for "$15".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

Section Referred to in Other Sections

This section is referred to in section 1930 of this title.

§ 1915. Proceedings in forma pauperis

Section Referred to in Other Sections

This section is referred to in section 1930 of this title; title 18 section 3006A.

§ 1920. Taxation of costs

A judge or clerk of any court of the United States may tax as costs the following:

[See main edition for text of (1) to (4)]

(5) Docket fees under section 1923 of this title;

(6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under section 1828 of this title.

A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree.

(As amended Oct. 28, 1978, Pub. L. 95-539, § 7, 92 Stat. 2044.)

Amendments

1978—Par. (6). Pub. L. 95-539 added par. (6).

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-539 effective Oct. 28, 1978, see section 10(a) of Pub. L. 95-539, set out as an Effective Date of 1978 Amendment note under section 602 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1821, 2412 of this title.

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[1] Subsec. (d) enacted without a par. "(1)" designation.

§ 1923. Docket fees and costs of briefs

[See main edition for text of (a)]

(b) The docket fees of United States attorneys and United States trustees shall be paid to the clerk of court and by him paid into the Treasury.

[See main edition for text of (c)]

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 245, 92 Stat. 2671.)

REPEAL OF REFERENCES TO UNITED STATES TRUSTEE

Section 408(c) of Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2687, provided that all references to United States trustees contained in this title are deleted, as of Apr. 1, 1984.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-598 added "and United States trustees" following "United States attorneys".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 1930. Bankruptcy courts

(a) Notwithstanding section 1915 of this title, the parties commencing a case under title 11 shall pay to the clerk of the bankruptcy court the following filing fees:

(1) For a case commenced under chapter 7 or 13 of title 11, $60.

(2) For a case commenced under chapter 9 of title 11, $300.

(3) For a case commenced under chapter 11 of title 11 that does not concern a railroad, as defined in section 101 of title 11, $200.

(4) For a case commenced under chapter 11 of title 11 concerning a railroad, as so defined, $500.

An individual commencing a voluntary case or a joint case under title 11 may pay such fee in installments.

(b) The Judicial Conference of the United States may prescribe additional fees in cases under title 11 of the same kind as the Judicial Conference prescribes under section 1914(b) of this title.

(c) Upon the filing of any separate or joint notice of appeal or application for appeal or upon the receipt of any order allowing, or notice of the allowance of, an appeal or a writ of certiorari $5 shall be paid to the clerk of the bankruptcy court, by the appellant or petitioner.

(d) Whenever any case or proceeding is dismissed in any bankruptcy court for want of jurisdiction, such court may order the payment of just costs.

(e) The clerk of the bankruptcy court may collect only the fees prescribed under this section.

(Added Pub. L. 95-598, title II, § 246(a), Nov. 6, 1978, 92 Stat. 2671.)

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 11 App. section 104.

CHAPTER 129—MONEYS PAID INTO COURT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 11 App. section 347.

CHAPTER 131—RULES OF COURTS

§ 2075. Bankruptcy rules

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure in cases under title 11.

Such rules shall not abridge, enlarge, or modify any substantive right.

Such rules shall not take effect until they have been reported to Congress by the Chief Justice at or after the beginning of a regular session thereof but not later than the first day of May and until the expiration of ninety days after they have been thus reported.

(As amended Pub. L. 95-598, title II, § 247, Nov. 6, 1978, 92 Stat. 2672.)

AMENDMENTS

1978—Pub. L. 95-598 substituted "in cases under title 11" for "under the Bankruptcy Act" and struck out provisions directing that all laws in conflict with bankruptcy rules be of no further force or effect after such rules have taken effect.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Nov. 6, 1978, see section 402(d) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 48 sections 1424, 1615.

CHAPTER 133—REVIEW—MISCELLANEOUS PROVISIONS

§ 2107. Time for appeal to court of appeals

Except as otherwise provided in this section, no appeal shall bring any judgment, order or decree in an action, suit or proceeding of a civil nature before a court of appeals for review unless notice of appeal is filed, within thirty days after the entry of such judgment, order or decree.

In any such action, suit or proceeding in which the United States or an officer or agency thereof is a party, the time as to all parties shall be sixty days from such entry.

In any action, suit or proceeding in admiralty, the notice of appeal shall be filed within ninety days after the entry of the order, judgment or decree appealed from, if it is a final decision, and within fifteen days after its entry if it is an interlocutory decree.

The district court or the bankruptcy court may extend the time for appeal not exceeding thirty days from the expiration of the original time herein prescribed, upon a showing of excusable neglect based on failure of a party to learn of the entry of the judgment, order or decree.

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 248, 92 Stat. 2672.)

Amendments

1978—Pub. L. 95-598 added "or the bankruptcy court" following "district court" in the provision authorizing the extension of the time for appeal upon a showing of excusable neglect and struck out paragraph which had directed that this section not apply to bankruptcy matters or other proceedings under Title 11.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 2112. Record on review and enforcement of agency orders

Section Referred to in Other sections

This section is referred to in section 2346 of this title; title 5 section 7123; title 7 sections 8, 9, 136n, 194, 1115, 1600, 1601; title 12 sections 93, 504, 505, 1464, 1730, 1730a, 1786, 1818, 1828, 1848, 1972; title 15 sections 21, 45, 57a, 78y, 79x, 80a-42, 80b-13, 687e, 717r, 1193, 1262, 1394, 1474, 1710, 1825, 1913, 2008, 2060, 2618, 3416; title 16 sections 825*l*, 1030, 1536, 1858; title 19 sections 81r, 1641; title 20 sections 351d, 1110c, 1207, 1234d, 1263, 1413, 1416, 2309, 2740, 2851, 3086; title 21 sections 346a, 348, 355, 360g, 371; title 22 section 1631f; title 26 sections 3310, 6363; title 27 section 204; title 29 sections 160, 210, 660, 667, 721; title 30 section 816; title 31 section 1263; title 33 section 921; title 39 section 3628; title 40 section 333; title 42 sections 263a, 263f, 291h, 300s, 504, 1316, 2022, 3027, 3759, 5311, 5405, 6068, 6306, 6869, 7525, 8412; title 43 sections 355, 1349; title 46 section 1181; title 47 section 402; title 49 section 1486.

PART VI—PARTICULAR PROCEEDINGS

CHAPTER 151—DECLARATORY JUDGMENTS

§ 2201. Creation of remedy

In a case of actual controversy within its jurisdiction, except with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1954 or a proceeding under section 505 or 1146 of title 11, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

(As amended Nov. 6, 1978, Pub. L. 95-598, title II, § 249, 92 Stat. 2672.)

Amendments

1978—Pub. L. 95-598 added reference to proceedings under section 505 or 1146 of title 11.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

CHAPTER 153—HABEAS CORPUS

Sec.
2256. Habeas corpus from bankruptcy courts.

Amendments

1978—Pub. L. 95-598, title II, § 250(b), Nov. 6, 1978, 92 Stat. 2672, added item 2256.

§ 2256. Habeas corpus from bankruptcy courts

A bankruptcy court may issue a writ of habeas corpus—

(1) when appropriate to bring a person before the court—

(A) for examination;

(B) to testify; or

(C) to perform a duty imposed on such person under this title; or

(2) ordering the release of a debtor in a case under title 11 in custody under the judgment of a Federal or State court if—

(A) such debtor was arrested or imprisoned on process in any civil action;

(B) such process was issued for the collection of a debt—

(i) dischargeable under title 11; or

(ii) that is or will be provided for in a plan under chapter 11 or 13 of title 11; and

(C) before the issuance of such writ, notice and a hearing have been afforded the adverse party of such debtor in custody to contest the issuance of such writ.

(Added Pub. L. 95-598, title II, § 250(a), Nov. 6, 1978, 92 Stat. 2672.)

Prior Provisions

A prior section 2256, added Pub. L. 95-144, § 3, Oct. 28, 1977, 91 Stat. 1220, which related to jurisdiction of proceedings relating to transferred offenders, was transferred to section 3244 of Title 18, Crimes and Criminal Procedure, by Pub. L. 95-598, title III, § 314(j), Nov. 6, 1978, 92 Stat. 2677.

Effective Date

Section effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

CHAPTER 157—INTERSTATE COMMERCE COMMISSION ORDERS; ENFORCEMENT AND REVIEW

§ 2321. Judicial review of Commission's orders and decisions; procedure generally; process

[*See main edition for text of* (a) *and* (b)]

(c) The orders, writs, and process of the district courts may, in the cases specified in subsection (b) and in enforcement actions and actions to collect civil penalties under subtitle IV of title 49, run, be served and be returnable anywhere in the United States.

(As amended Oct. 17, 1978, Pub. L. 95-473, § 2(a)(3)(B), 92 Stat. 1465.)

Amendments

1978—Subsec. (c). Pub. L. 95-473 substituted "enforcement actions and actions to collect civil penalties under subtitle IV of title 49" for "actions under section 20 of the Act of February 4, 1887, as amended (24 Stat. 386; 49 U.S.C. 20), section 23 of the Act of May 16, 1942, as amended (56 Stat. 301; 49 U.S.C. 23), and section 3 of the Act of February 19, 1903, as amended (32 Stat. 848; 49 U.S.C. 43)".

§ 2323. Duties of Attorney General; intervenors

The Attorney General shall represent the Government in the actions specified in section 2321 of this title and in enforcement actions and actions to collect civil penalties under subtitle IV of title 49.

[*See main edition for text of 2d to 4th unnumbered pars.*]

(As amended Oct. 17, 1978, Pub. L. 95-473, § 2(a)(3)(C), 92 Stat. 1465.)

Amendments

1978—Pub. L. 95-473 in the provisions relating to the representation of the Government by the Attorney General substituted "enforcement actions and actions to collect civil penalties under subtitle IV of title 49" for "actions under section 20 of the Act of February 4, 1887, as amended (24 Stat. 386; 49 U.S.C. 20), section 23 of the Act of May 16, 1942, as amended (56 Stat. 301; 49 U.S.C. 23), and section 3 of the Act of February 19, 1903, as amended (32 Stat. 848; 49 U.S.C. 43)".

CHAPTER 158—ORDERS OF FEDERAL AGENCIES; REVIEW

Chapter Referred to in Other Sections

This chapter is referred to in section 2321 of this title; title 5 section 7703; title 8 section 1105a; title 39 section 3628; title 42 section 2239; title 47 section 402; title 50 section 167h.

§ 2341. Definitions

Abolition of the Atomic Energy Commission

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 2342. Jurisdiction of court of appeals

The court of appeals has exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of—

[*See main edition for text of (1) to (3)*]

(4) all final orders of the Atomic Energy Commission made reviewable by section 2239 of title 42;

(5) all rules, regulations, or final orders of the Interstate Commerce Commission made reviewable by section 2321 of this title; and

(6) all final orders of the Merit Systems Protection Board except as provided for in section 7703(b) of title 5.

Jurisdiction is invoked by filing a petition as provided by section 2344 of this title.

(As amended Pub. L. 95-454, title II, § 206, Oct. 13, 1978, 92 Stat. 1144.)

Amendments

1978—Par. (6). Pub. L. 95-454 added par. (6).

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of Title 5, Government Organization and Employees. 2342

Abolition of the Atomic Energy Commission

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

CHAPTER 161—UNITED STATES AS PARTY GENERALLY

§ 2401. Time for commencing action against United States

(a) Except as provided by the Contract Disputes Act of 1978, every civil action commenced against the United States shall be barred unless the complaint is filed within six years after the right of action first accrues. The action of any person under legal disability or beyond the seas at the time the claim accrues may be commenced within three years after the disability ceases.

[*See main edition for text of (b)*]

(As amended Nov. 1, 1978, Pub. L. 95-563, § 14(b), 92 Stat. 2389.)

References in Text

The Contract Disputes Act of 1978, referred to in subsec. (a), is Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2383, which is classified principally to chapter 9 (§ 601 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 41 and Tables.

Amendments

1978—Subsec. (a). Pub. L. 95-563 added Contract Disputes Act of 1978 exception.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-563 effective with respect to contracts entered into 120 days after Nov. 1, 1978 and, at the election of the contractor, with respect to any claim pending at such time before the contracting officer or initiated thereafter, see section 16 of Pub. L. 95-563, set out as an Effective Date note under section 601 of Title 41, Public Contracts.

§ 2414. Payment of judgments and compromise settlements

Except as provided by the Contract Disputes Act of 1978, payment of final judgments rendered by a district court against the United States shall be made on settlements by the General Accounting Office. Payment of final judgments rendered by a State or foreign court or tribunal against the United States, or against its agencies or officials upon obligations or liabilities of the United States, shall be made

on settlements by the General Accounting Office after certification by the Attorney General that it is in the interest of the United States to pay the same.

[*See main edition for text of 2d and 3d unnumbered pars.*]

(As amended Nov. 1, 1978, Pub. L. 95-563, § 14(d), 92 Stat. 2390.)

REFERENCES IN TEXT

The Contract Disputes Act of 1978, referred to in first paragraph, is Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2383, which is classified principally to chapter 9 (§ 601 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 41 and Tables.

AMENDMENTS

1978—Pub. L. 95-563 added Contract Disputes Act of 1978 exception.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-563 effective with respect to contracts entered into 120 days after Nov. 1, 1978, and, at the election of the contractor, with respect to any claim pending at such time before the contracting officer or initiated thereafter, see section 16 of Pub. L. 95-563, set out as an Effective Date note under section 601 of Title 41, Public Contracts.

§ 2415. Time for commencing actions brought by the United States

(a) Subject to the provisions of section 2416 of this title, and except as otherwise provided by Congress, every action for money damages brought by the United States or an officer or agency thereof which is founded upon any contract express or implied in law or fact, shall be barred unless the complaint is filed within six years after the right of action accrues or within one year after final decisions have been rendered in applicable administrative proceedings required by contract or by law, whichever is later: *Provided*, That in the event of later partial payment or written acknowledgment of debt, the right of action shall be deemed to accrue again at the time of each such payment or acknowledgment: *Provided further*, That an action for money damages brought by the United States for or on behalf of a recognized tribe, band or group of American Indians shall not be barred unless the complaint is filed more than six years and ninety days after the right of action accrued: *Provided further*, That an action for money damages which accrued on the date of enactment of this Act in accordance with subsection (g) brought by the United States for or on behalf of a recognized tribe, band, or group of American Indians, or on behalf of an individual Indian whose land is held in trust or restricted status, shall not be barred unless the complaint is filed after April 1, 1980 or more than two years after a final decision has been rendered in applicable administrative proceedings required by contract or by law, whichever is later.

(b) Subject to the provisions of section 2416 of this title, and except as otherwise provided by Congress, every action for money damages brought by the United States or an officer or agency thereof which is founded upon a tort shall be barred unless the complaint is filed within three years after the right of action first accrues: *Provided*, That an action to recover damages resulting from a trespass on lands of the United States; an action to recover damages resulting from fire to such lands; an action to recover for diversion of money paid under a grant program; and an action for conversion of property of the United States may be brought within six years after the right of action accrues, except that such actions for or on behalf of a recognized tribe, band or group of American Indians, including actions relating to allotted trust or restricted Indian lands, may be brought within six years and ninety days after the right of action accrues, except that such actions for or on behalf of a recognized tribe, band, or group of American Indians, including actions relating to allotted trust or restricted Indian lands, or on behalf of an individual Indian whose land is held in trust or restricted status which accrued on the date of enactment of this Act in accordance with subsection (g) may be brought on or before April 1, 1980.

[*See main edition for text of* (c) *to* (h)]

(As amended Pub. L. 95-64, July 11, 1977, 91 Stat. 268; Pub. L. 95-103, Aug. 15, 1977, 91 Stat. 842.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-103, § 1(a), substituted "after April 1, 1980" for "after August 18, 1977".

Pub. L. 95-64, § 1(a), substituted "unless the complaint is filed after August 18, 1977" for "unless the complaint is filed more than eleven years after the right of action accrued" in the proviso covering actions for money damages brought by the United States for or on behalf of a recognized tribe, band, or group of American Indians, or on behalf of an individual Indian whose land is held in trust or restricted status based upon rights of action which accrued on July 18, 1966, in accordance with subsec. (g).

Subsec. (b). Pub. L. 95-103, § 1(b), substituted "on or before April 1, 1980" for "on or before August 18, 1977".

Pub. L. 95-64, § 1(b), substituted "may be brought on or before August 18, 1977" for "may be brought within eleven years after the right of action accrues" in the proviso covering actions for or on behalf of recognized tribes, bands, or groups of American Indians, including actions related to allotted trust or restricted Indians lands, or on behalf of an individual Indian whose land is held in trust or restricted status based upon rights of action which accrued on July 18, 1966, in accordance with subsec. (g).

CHAPTER 163—FINES, PENALTIES AND FORFEITURES

§ 2464. Security; special bond

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 sections 916g, 958, 959, 971f, 1100a-1.

CHAPTER 165—COURT OF CLAIMS PROCEDURE

Sec.
2510. Referral of cases by the Comptroller General or the head of an executive department or agency.

AMENDMENTS

1978—Pub. L. 95-563, § 14(h)(2)(B), Nov. 1, 1978, 92 Stat. 2390, inserted "or the head of an executive department or agency" following "Comptroller General" in item 2510.

§ 2510. Referral of cases by the Comptroller General or the head of an executive department or agency

(a) The Comptroller General may transmit to the Court of Claims for trial and adjudication any claim or matter of which the Court of Claims might take jurisdiction on the voluntary action of the claimant, together with all vouchers, papers, documents, and proofs pertaining thereto.

The Court of Claims shall proceed with the claims or matters so referred as in other cases pending in such court and shall render judgment thereon.

(b)(1) The head of any executive department or agency may, with the prior approval of the Attorney General, refer to the Court of Claims for judicial review any final decision rendered by a board of contract appeals pursuant to the terms of any contract with the United States awarded by that department or agency which such head of such department or agency has concluded is not entitled to finality pursuant to the review standards specified in section 10(b) of the Contracts Disputes Act of 1978. The head of each executive department or agency shall make any referral under this section within one hundred and twenty days of the receipt of a copy of the final appeal decision.

(2) The Court of Claims shall review the matter referred in accordance with the standards specified in section 10(b) of the Contracts Disputes Act of 1978. The Court shall proceed with judicial review on the administrative record made before the board of contract appeals on matters so referred as in other cases pending in such court, shall determine the issue of finality of the appeal decision, and shall, as appropriate, render judgment thereon, take additional evidence, or remand the matter pursuant to the authority specified in section 1491 of this title.

(As amended Nov. 1, 1978, Pub. L. 95-563, § 14(h)(1), (2)(A), 92 Stat. 2390.)

REFERENCES IN TEXT

Section 10(b) of the Contracts Disputes Act of 1978, referred to in subsec. (b), probably means section 10(b) of the Contract Disputes Act of 1978, Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2388, which is classified to section 609(b) of Title 41, Public Contracts.

AMENDMENTS

1978—Pub. L. 95-563, inserted "or the head of an executive department or agency" in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-563 effective with respect to contracts entered into 120 days after Nov. 1, 1978 and, at the election of the contractor, with respect to any claim pending at such time before the contracting officer or initiated thereafter, see section 16 of Pub. L. 95-563, set out as an Effective Date note under section 601 of Title 41, Public Contracts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 41 section 607.

§ 2517. Payment of judgments

(a) Except as provided by the Contract Disputes Act of 1978, every final judgment rendered by the Court of Claims against the United States shall be paid out of any general appropriation therefor, on presentation to the General Accounting Office of a certification of the judgment by the clerk and chief judge of the court.

(b) Payment of any such judgment and of interest thereon shall be a full discharge to the United States of all claims and demands arising out of the matters involved in the case or controversy, unless the judgment is designated a partial judgment, in which event only the matters described therein shall be discharged.

(As amended Nov. 1, 1978, Pub. L. 95-563, § 14(e), (f), 92 Stat. 2390.)

REFERENCES IN TEXT

The Contract Disputes Act of 1978, referred to in subsec. (a), is Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2383, which is classified principally to chapter 9 (§ 601 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 41 and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-563, § 14(e), added Contract Disputes Act of 1978 exception.

Subsec. (b). Pub. L. 95-563, § 14(f), added provision relating to discharge of partial judgments.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-563 effective with respect to contracts entered into 120 days after Nov. 1, 1978 and, at the election of the contractor, with respect to any claim pending at such time before the contracting officer or initiated thereafter, see section 16 of Pub. L. 95-563, set out as an Effective Date note under section 601 of Title 41, Public Contracts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2412 of this title; title 16 sections 79g, 460bb-2; title 25 section 70v-3; title 31 section 724a.

§ 2518. Certification of judgments for appropriation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 70v-3; title 31 section 724a.

CHAPTER 171—TORT CLAIMS PROCEDURE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1346 of this title; title 2 section 190g; title 5 sections 3111, 3373, 3374, 5564; title 15 section 637; title 16 sections 565a-2, 742f, 742*l*, 1703; title 20 section 1105; title 22 section 2504; title 29 sections 938, 995; title 37 section 554; title 39 section 409; title 42 sections 247b, 5055; title 45 section 437; title 46 section 740.

§ 2671. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 995; title 42 section 247b.

§ 2672. Administrative adjustment of claims

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2678, 2679 of this title; title 10 sections 1089, 2733; title 15 section

2081; title 22 sections 817, 1474, 2669; title 29 section 938; title 31 section 724a; title 32 section 715; title 38 sections 236, 351, 4116; title 39 section 2603; title 42 sections 233, 2458a.

§ 2680. Exceptions

APPLICABILITY OF SUBSEC. (j)

Joint Res. July 3, 1952, ch. 570, § 1(a)(32), 66 Stat. 333, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, and Joint Res. June 30, 1953, ch. 172, 67 Stat. 132, provided that subsec. (j) of this section, in addition to coming into full force and effect in time of war, should continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by 1950 Proc. No. 2914, 15 F.R. 9029, set out as a note preceding section 1 of Title 50 Appendix, War and National Defense, or such earlier date or dates as may be provided for by Congress, but in no event beyond Aug. 1, 1953. Section 7 of Joint Res. July 3, 1952, provided that it should become effective June 16, 1952.

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JUDICIAL PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

Pub. L. 95-521, Title III, Oct. 26, 1978, 92 Stat. 1851

Sec.
301. Persons required to file.
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303. Filing of reports.
304. Failure to file or falsifying reports.
305. Custody of and public access to reports.
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§ 301. Persons required to file

(a) Within thirty days of assuming the position of a judicial employee, an individual shall file a report containing the information described in section 302(b).

(b) Within five days of the transmittal by the President to the Senate of the nomination of an individual to be a judicial officer, such individual shall file a report containing the information described in section 302(b). Nothing in this Act shall prevent any Congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

(c) Any individual who is a judicial officer or employee during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 302(a).

(d) Any individual who occupies a position as a judicial officer or employee shall on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 302(a) covering the preceding calendar year if the report required by subsection (c) of this subsection has not been filed and covering the portion of that calendar year up to the date the individual left such office or position, unless such individual has accepted employment in another position as a judicial officer or employee.

(e) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Judicial Ethics Committee established pursuant to section 303(a) of this title (hereinafter in this title referred to as the "Committee"), but the total of such extensions shall not exceed ninety days.

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1824, known as the Ethics in Government Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 2, The Congress, and Tables.

This title, referred to in subsec. (e), is title III of Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1851, which is classified to sections 301 to 309 of this Appendix. Section 303(a) of this title is classified to section 303(a) of this Appendix.

SHORT TITLE

For Short Title of Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1824, as the "Ethics in Government Act of 1978", see section 1 of Pub. L. 95-521, set out as a Short Title note under section 701 of Title 2, The Congress.

§ 302. Contents of reports

(a) Each report filed pursuant to section 301(c) shall include a full and complete statement with respect to the following:

(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating $100 or more in value.

(B) The source and type of income which consists of dividends, rent, interest, and capital gains received during the preceding calendar year which exceeds $100 in amount or value, and an indication of which of the fol-

lowing categories the amount or value of such item of income is within—

(i) not more than $1,000,

(ii) greater than $1,000 but not more than $2,500,

(iii) greater than $2,500 but not more than $5,000,

(iv) greater than $5,000 but not more than $15,000,

(v) greater than $15,000 but not more than $50,000,

(vi) greater than $50,000 but not more than $100,000, or

(vii) greater than $100,000.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(B) The identity of the source, a brief description, and the value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph. A gift need not be so aggregated if, in an unusual case, a publicly available request for a waiver is granted.

(C) The identity of the source and a brief description of reimbursements received from any source aggregating $250 or more in value and received during the preceding calendar year.

(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative or any deposits aggregating $5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceed $10,000 at any time during the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $10,000 as of the close of the preceding calendar year need be reported under this paragraph.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale, or exchange during the preceding calendar year which exceeds $1,000—

(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

(B) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transactions solely by and between the reporting individual, his spouse, or dependent children.

(6) The identity of all positions held on or before the date of filing during the current calendar year as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This paragraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b) Each report filed pursuant to subsections (a) and (b) of section 301 shall include a full and complete statement with respect to the information required by paragraphs (3), (4), (6), and (7) of subsection (a) of this section, as of a date, specified in such report, which shall be not more than thirty-one days prior to the date of filing, and the information required by paragraph (1) of subsection (a) of this section for the year of filing and the preceding calendar year.

(c) In the case of any individual described in section 301(d) of this title, any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

(d)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), and (5) of subsection (a) of this section are as follows:

(A) not more than $5,000;

(B) greater than $5,000 but not more than $15,000;

(C) greater than $15,000 but not more than $50,000;

(D) greater than $50,000 but not more than $100,000;

(E) greater than $100,000 but not more than $250,000; and

(F) greater than $250,000.

(2) For the purposes of paragraph (3) of subsection (a) of this section if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) of this section is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

(e)(1) Except as provided in the last sentence of this paragraph, each report required by subsection (a), (b), or (c) of this section shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

(A) The source of items of earned income earned by a spouse from any person which exceed $1,000 and, with respect to his spouse or dependent child, all information required to be reported in subsection (a)(1)(B) of this section with respect to income derived from any asset held by the spouse or dependent child and reported pursuant to paragraph (3). With respect to earned income, if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

(B) In the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment or the value of other gifts.

(C) In the case of any reimbursement which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of the reimbursement.

(D) In the case of items described in paragraphs (3) through (5), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Each report referred to in subsection (b) of this section shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a) of this section, as specified in this paragraph.

(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this subsection[1] with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

(2) A reporting individual other than a judicial officer of the United States need not report the holdings of or the source of income from any of the holdings of—

(A) any qualified blind trust (as defined in paragraph (3)); or

(B) a trust—

(i) which was not created directly by such individual, his spouse, or any dependent child, and

(ii) the holding or sources of income of which such individual, his spouse, and any dependent child have no knowledge of,

but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust under subsection (a)(1)(B) of this section.

(3) For purposes of this subsection, the term "qualified blind trust" includes any trust in which a reporting individual, his spouse, or any dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

(A) The trustee of the trust is a financial institution, an attorney, a certified public accountant, or a broker, who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who)—

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[1] So in original. Probably should be "section".

(i) is independent of and unassociated with any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party,

(ii) is or has not been an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party, and

(iii) is not a relative of any interested party.

(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

(C) The trust instrument which establishes the trust provides that—

(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1)(B) of this section, but such report shall not identify any asset or holding;

(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

For purposes of this subsection "interested party" means a reporting individual, his spouse, and any dependent child if the reporting individual, his spouse, or dependent child has a beneficial interest in the principal or income of a qualified blind trust; "broker" has the meaning set forth in section 78[1] of title 15; and "supervising ethics office" means the Judicial Ethics Committee.

(4) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purpose of section 208 of title 28,[2] and any other conflict of interest statutes or regulations of the Federal Government, until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

(5)(A) The reporting individual shall, within thirty days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

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[1] So in original. Probably should be "section 78c".

[2] So in original. Probably should be "title 18".

(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

(i) notify his supervising ethics office of such dissolution, and

(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 305 and the provisions of that section shall apply.

(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.

(6)(A) A trustee of a qualified blind trust shall not knowingly or negligently (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (vi) fail to file any document required by this subsection.

(B) A reporting individual shall not knowingly or negligently (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C), of this subsection or (ii) fail to file any document required by this subsection.

(C)(i) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(ii) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $1,000.

(7) Any trust which is in existence prior to October 26, 1978, shall be considered a qualified blind trust if—

(A) the supervising ethics office determines that the trust was a good faith effort to establish a blind trust;

(B) the previous trust instrument is amended or, if such trust instrument does not by its terms permit amendment, all parties to the trust instrument, including the reporting individual and the trustee, agree in writing that the trust shall be administered in accordance with the requirements of paragraph (3)(C) and a trustee is (or has been) appointed who meets the requirements of paragraph (3); and

(C) a copy of the trust instrument (except testamentary provisions), a list of the assets previously transferred to the trust by an interested party and the category of value of each such asset at the time it was placed in the trust, and a list of assets previously placed in the trust by an interested party which have been sold is filed and made available to the public as provided under paragraph (5) of this subsection.

(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

REFERENCES IN TEXT

Section 301(d) of this title, referred to in subsec. (c), is section 301(d) of Pub. L. 95-521, title III, Oct. 26, 1978, 92 Stat. 1851, which is classified to section 301(d) of this Appendix.

This title, referred to in subsec. (g), is title III of Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1851, which is classified to sections 301 to 309 of this Appendix. For complete classification of Pub. L. 95-521 to the Code, see Tables.

§ 303. Filing of reports

(a) The Judicial Conference of the United States shall establish a Judicial Ethics Committee which shall be responsible for developing the forms for reporting the information required by this title and for receiving and making available, in accordance with the provisions of this title, the reports described in section 301.

(b) Each judicial officer and judicial employee shall file the report required by this title with the Committee and shall file a copy of such report as a public document with the clerk of the court on which he sits or serves.

(c) In the performance of its functions under this title, the Committee, with the approval of the Judicial Conference of the United States, shall—

(1) develop the necessary forms and promulgate such rules and regulations as may be necessary;

(2) monitor and investigate compliance with the requirements of this title;

(3) provide for the availability of reports as required by section 305;

(4) conduct, or cause to be conducted, the reviews required by section 306;

(5) cooperate with the Attorney General in enforcing the requirements of this title;

(6) submit to the Congress and the President recommendations for legislative revision of this title;

(7) perform such other functions as may be assigned by the Judicial Conference of the United States.

(d) The Committee shall, within one hundred and twenty days after October 26, 1978, develop and, with the approval of the Judicial Conference of the United States, promulgate a regulation establishing a method or methods for readily determining, without the necessity for expert appraisal, the fair market value of assets required to be disclosed by this title.

REFERENCES IN TEXT

This title, referred to in text, is title III of Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1851, which is classified to sections 301 to 309 of this Appendix. For complete classification of Pub. L. 95-521 to the Code, see Tables.

§ 304. Failure to file or falsifying reports

(a) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully falsifies or who knowingly or willfully fails to file or report any information that such individual is required to report pursuant to section 302. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(b) The Committee shall refer to the Attorney General the name of any individual the Committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or failed to file information required to be reported.

§ 305. Custody of and public access to reports

(a) The Committee shall make each report filed with it under this title available to the public in accordance with subsection (b) of this section.

(b) The Committee shall, within fifteen days after any report is received by the Committee under this title, permit inspection by or furnish a copy of such report to any person requesting such inspection or copy. The Committee may require the requesting person to pay a reasonable fee in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

(c)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

(d) Any report received by the Committee shall be held in its custody and be made available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 301(b) and was not subsequently confirmed by the Senate, such reports shall be destroyed one year after the individual is no longer under consideration by the Senate unless needed in an ongoing investigation.

REFERENCES IN TEXT

This title, referred to in subsecs. (a) and (b), is title III of Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1851, which is classified to sections 301 to 309 of this Appendix. For complete classification of Pub. L. 95-521 to the Code, see Tables.

§ 306. Compliance procedures

(a) The Committee shall establish procedures for the review of reports filed with it under this title to determine whether the reports are filed in a timely manner, are complete, and are in proper form. In the event a determination is made that a report is not so filed, the Committee shall so inform the reporting individual and direct him to take all necessary corrective action.

(b) Such procedures shall include provisions for conducting a review each year of financial statements filed in that year by judicial officers and employees to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review.

REFERENCES IN TEXT

This title, referred to in subsec. (a), is title III of Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1851, which is classified to sections 301 to 309 of this Appendix. For complete classification of Pub. L. 95-521 to the Code, see Tables.

§ 307. Additional requirements

(a) Nothing in this title shall be construed to prevent the Committee, with the approval of the Judicial Conference of the United States, from requiring officers or employees of the judicial branch not covered by this title to submit confidential financial statements.

(b) The Committee, with the approval of the Judicial Conference, may require disclosure, in the reports filed pursuant to subsections (a) and (c) of section 302, of gifts received by a dependent child of a reporting individual if the information required to be disclosed does not exceed that which must be reported by a spouse of a reporting individual under this title.

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law or regulation.

(d) The provisions of this title requiring the reporting of information shall not supersede the requirements of section 7342 of title 5.

REFERENCES IN TEXT

This title, referred to in subsecs. (a), (b), and (d), is title III of Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1851, which is classified to sections 301 to 309 of this Appendix. For complete classification of Pub. L. 95-521 to the Code, see Tables.

This Act, referred to in subsec. (c), means Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1824, known as the Ethics in Government Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 2, The Congress, and Tables.

§ 308. Definitions

For the purposes of this title, the term—

(1) "income" means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; net and gross income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

(2) "relative" means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

(3) "gift" means a payment, advance, forebearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government;

(D) food and beverages consumed at banquets, receptions, or similar events; or

(E) communications to the offices of a reporting individual including subscriptions to newspapers and periodicals;

(4) "honoraria" has the meaning given such term in the Federal Election Campaign Act of 1971 [2 U.S.C. 431 et seq.].

(5) "value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual;

(6) "personal hospitality of any individual" means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

(7) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of title 26;

(8) "reimbursement" means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government;

(B) required to be reported by the reporting individual under section 7342 of title 5; or

(C) required to be reported under section 434 of title 2;

(9) "judicial officer" means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals; United States district courts, including the district courts in the Canal Zone, Guam, and the Virgin Islands; Court of Claims; Court of Customs and Patent Appeals; Customs Court; courts of the District of Columbia and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior; and

(10) "judicial employee" means any employee of the judicial branch of the Government who is not a judicial officer and who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who receives compensation at a rate at or in excess of the minimum rate prescribed for grade 16 of the General Schedule under section 5332 of title 5.

REFERENCES IN TEXT

This title, referred to in provision preceding par. (1), is title III of Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1851, which is classified to sections 301 to 309 of this Appendix. For complete classification of Pub. L. 95-521 to the Code, see Tables.

The Federal Election Campaign Act of 1971, referred to in par. (4), is Pub. L. 92-225, Feb. 7, 1972, 86 Stat. 3, as amended, which is classified principally to chapter 14 (§ 431 et seq.) of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 431 of Title 2 and Tables.

§ 309. Effective Date

This title shall take effect on January 1, 1979, and the reports filed under section 301(c) on May 15, 1979, shall include information for calendar year 1978.

References in Text

This title, referred to in text, is title III of Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1851, which is classified to sections 301 to 309 of this Appendix. For complete classification of Pub. L. 95-521 to the Code, see Tables.

RULES OF EVIDENCE FOR UNITED STATES COURTS AND MAGISTRATES

(As amended to January 1, 1979)

ARTICLE IV—RELEVANCY AND ITS LIMITS

Rule
412. Rape cases; relevance of victim's past behavior.

AMENDMENTS

1978—Pub. L. 95-540, § 2(b), Oct. 28, 1978, 92 Stat. 2047, added item 412.

ARTICLE IV—RELEVANCY AND ITS LIMITS

Rule 412. Rape Cases; Relevance of Victim's Past Behavior

(a) Notwithstanding any other provision of law, in a criminal case in which a person is accused of rape or of assault with intent to commit rape, reputation or opinion evidence of the past sexual behavior of an alleged victim of such rape or assault is not admissible.

(b) Notwithstanding any other provision of law, in a criminal case in which a person is accused of rape or of assault with intent to commit rape, evidence of a victim's past sexual behavior other than reputation or opinion evidence is also not admissible, unless such evidence other than reputation or opinion evidence is—

(1) admitted in accordance with subdivisions (c)(1) and (c)(2) and is constitutionally required to be admitted; or

(2) admitted in accordance with subdivision (c) and is evidence of—

(A) past sexual behavior with persons other than the accused, offered by the accused upon the issue of whether the accused was or was not, with respect to the alleged victim, the source of semen or injury; or

(B) past sexual behavior with the accused and is offered by the accused upon the issue of whether the alleged victim consented to the sexual behavior with respect to which rape or assault is alleged.

(c)(1) If the person accused of committing rape or assault with intent to commit rape intends to offer under subdivision (b) evidence of specific instances of the alleged victim's past sexual behavior, the accused shall make a written motion to offer such evidence not later than fifteen days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If the court determines that the offer of proof contains evidence described in subdivision (b), the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing the parties may call witnesses, including the alleged victim, and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the accused seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence which the accused seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined.

(d) For purposes of this rule, the term "past sexual behavior" means sexual behavior other than the sexual behavior with respect to which rape or assault with intent to commit rape is alleged.

(Added Pub. L. 95-540, § 2(a), Oct. 28, 1978, 92 Stat. 2046.)

EFFECTIVE DATE

Section 3 of Pub. L. 95-540 provided that: "The amendments made by this Act [enacting this rule] shall apply to trials which begin more than thirty days after the date of the enactment of this Act [Oct. 28, 1978]."

ARTICLE XI—MISCELLANEOUS RULES

Rule 1101. Applicability of Rules

(a) *Courts and magistrates.* These rules apply to the United States district courts, the United States bankruptcy courts, the District Court of

Guam, the District Court of the Virgin Islands, the District Court for the District of the Canal Zone, the United States courts of appeals, the Court of Claims, and to United States magistrates, in the actions, cases, and proceedings and to the extent hereinafter set forth. The terms "judge" and "court" in these rules include United States magistrates and commissioners of the Court of Claims.

(*b*) *Proceedings generally.* These rules apply generally to civil actions and proceedings, including admiralty and maritime cases, to criminal cases and proceedings, to contempt proceedings except those in which the court may act summarily, and to proceedings and cases under title 11, United States Code.

[*See main edition for text of* (*c*) *to* (*e*)]

(As amended Pub. L. 95-598, title II, §§ 251, 252, Nov. 6, 1978, 92 Stat. 2673.)

AMENDMENTS

1978—Subd. (a). Pub. L. 95-598, §§ 251(a), 252, added "the United States bankruptcy courts," following "the United States district courts," and struck out ", referees in bankruptcy," following "United States magistrates".

Subd. (b). Pub. L. 95-598, § 251(b), substituted "title 11, United States Code" for "the Bankruptcy Act".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment of subd. (a) of this rule by section 252 of Pub. L. 95-598 effective Apr. 1, 1984, see section 402(b) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of the Appendix to Title 11, Bankruptcy.

Amendment of subds. (a) and (b) of this rule by section 251 of Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of the Appendix to Title 11, Bankruptcy.

Rule 1103. Title

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-540, § 1, Oct. 28, 1978, 92 Stat. 2046, provided: "That this Act [enacting rule 412 of these rules and a provision set out as a note under rule 412 of these rules] may be cited as the 'Privacy Protection for Rape Victims Act of 1978'."

RULES OF THE COURT OF CLAIMS OF THE UNITED STATES

As amended to January 1, 1979

Rule 51. Motions and related papers

[*See main edition for text of* (*a*) *and* (*b*)]

(c) *Briefs; memoranda; affidavits.* (1) Any brief, memorandum of law, or affidavits submitted in support of any motion, or in support of any objections or response to a motion, shall be included in or attached to each copy of such motion, objections, or response. Every dispositive motion, as defined in Rule 52(a), shall be supported by the moving party's brief. As to any rule or regulation relied upon, see Rule 124(c).

(2) Briefs relating to dispositive motions shall conform to the pertinent requirements of Rule 144, dealing with the content and length of briefs: *Provided,* That in the case of cross-motions for summary judgment, for purposes of length the objecting or responding brief of the party who filed first shall be treated as a reply brief governed by Rule 144(e)(2).

[*See main edition for text of* (*d*)]

Rule 161. Applicability of chapter

The ensuing rules in this chapter (Rules 161-68) shall apply to cases founded on contracts containing disputes clauses subject, potentially, to review, in whole or in part, under the terms of the Wunderlich Act (68 Stat. 81, 41 U.S.C. §§ 321-22), and are designed to supplement the other rules of the court, particularly Rules 31-57 (Chapters III and IV, Pleadings and Motions), Rule 101 (Summary Judgment) and Rule 144 (Content of Briefs). To the extent that a party is entitled to relief outside the Wunderlich Act, a trial de novo, if required, on issues of fact shall be held in conformity with appropriate rules in other chapters.